

Exhibit No.	
Issue:	Application for ETC Designation
Witness:	Glenn H. Brown
Sponsoring Party:	Spectra Communications Group, LLC d/b/a CenturyTel
Type of Exhibit:	Rebuttal Testimony
Case No:	TO-2005-0423
Date:	November 4, 2005

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Application of)	
Chariton Valley Telecom Corporation)	
For Designation as a Telecommunications)	
Carrier Eligible for Federal Universal)	Case No. TO-2005-0423
Service Support pursuant to Section 254)	
Of the Telecommunications Act of 1996)	

REBUTTAL TESTIMONY OF GLENN H. BROWN

ON BEHALF OF SPECTRA COMMUNICATIONS GROUP, LLC, d/b/a CENTURYTEL

November 4, 2005

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

2 A. My name is Glenn H. Brown, and my business address is 55 Cathedral Rock
3 Drive, Suite 32, Sedona, Arizona 86351.

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

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

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

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

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

20 A. I have been active in almost every major universal service proceeding before the
21 Federal Communications Commission (FCC) since the passage of the 1996 Act. In 1998,
22 the FCC appointed the Rural Task Force (RTF) to develop policy recommendations for
23 rural telecommunications carriers. While not a member of the RTF, I attended almost all

1 of its meetings, and assisted it in both analytical matters and in the preparation and
2 drafting of several white papers. In my current position I provide advice and assistance
3 to small and mid-size telecommunications companies regarding universal service and
4 other regulatory and pricing issues before federal and state regulatory bodies.

5 **Q. On whose behalf are you presenting testimony?**

6 A. I am presenting testimony on behalf of Spectra Communications Group, LLC
7 d/b/a CenturyTel (Spectra). Spectra is a rural telephone company under the terms of the
8 Telecommunications Act of 1996 (1996 Act).

9 **Q. Please describe the issues that the Commission must decide in this case.**

10 A. Chariton Valley Telecom (CVT) is a facilities-based competitive local exchange
11 carrier (CLEC) providing various services over its fiber-to-the-premises network in
12 Macon, Missouri. The Macon exchange is served by Spectra. CVT has requested this
13 Commission to approve Eligible Telecommunications (ETC) status for its operations in
14 the Macon exchange in order for CVT to receive federal high-cost support at the same
15 per-line support level as Spectra. Furthermore, CVT has asked the Commission to
16 approve the redefinition of the Spectra study area for purposes of its receiving such
17 support to consist only of the Macon exchange.

18 **Q. What are the purposes of your testimony?**

19 A. The purposes of my testimony are:

- 20 1. To discuss the important responsibilities of the Missouri Public Service
21 Commission (Commission) under the 1996 Act in regards to implementation
22 of the federal universal service program. Under the Act, and FCC rules, the
23 Commission may approve additional ETCs in an area served by a rural

1 telephone company only if the Commission first determines that such
2 designation is in the public interest; and approve study area redefinitions only
3 when such redefinitions would not create “rural creamskimming.”

4 2. To discuss the evolution of the FCC’s guidelines regarding public interest
5 standards for the designation of multiple ETCs in rural telephone company
6 service areas.

7 3. To explain the public interest and ETC designation criteria articulated by the
8 FCC in their March 17, 2005 Order¹, and explain why it is important that the
9 Commission utilize these criteria in the instant proceeding. I will also discuss
10 the relationship of these criteria to the draft ETC designation rules that have
11 been prepared by the Commission Staff.

12 4. To evaluate the filing of Chariton Valley Telephone Corporation (CVT) for
13 ETC status in this proceeding against the FCC’s designation criteria and,
14 based upon this review, offer my opinion on whether approval of CVT’s
15 application in this proceeding would be in the public interest.

16 5. To reply to the statements made by CVT in its application for ETC status, the
17 testimony of James Simon, and information provided in response to
18 subsequent Data Requests.

¹ *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. (*ETC Designation Order*)

1 **Q. Could you please summarize the conclusions of your testimony?**

2 A. Based upon my examination of CVT's application, and supported by the facts and
3 data that I will be presenting in the remainder of my testimony, I do not believe
4 that the application of CVT to receive federal universal service support for all of
5 its customers in the portion of Spectra's study area for which it seeks ETC
6 designation is in the public interest. Specifically:

7 1. CVT does not meet the minimum qualification criteria as specified in the *ETC*
8 *Designation Order* since it does not provide a five-year plan showing how
9 high-cost funds will be invested to deliver services throughout the proposed
10 service area. Furthermore, does not pass the cost/benefit test outlined in the
11 *Virginia Cellular Order*,² and reiterated in the *ETC Designation Order*.
12 Therefore its application cannot reasonably be found to be in the public
13 interest.

14 2. CVT's application violates the prohibition against rural creamskimming since
15 the granting of its application would result in "high-cost" support going to low
16 cost service areas. Specifically:

17 a. At \$33.48 per line per month, the average cost of serving customers in the
18 Macon exchange is significantly below the average cost of serving Zone
19 1³ exchanges (\$40.73) and the cost of serving all consumers in the Spectra
20 study area (\$60.14).

² *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. (*Virginia Cellular Order*)

³ As will be more fully explained below, the Spectra high-cost support disaggregation plan has separated the study area into two support zones. Zone 1 consists of the twelve lowest-cost exchanges and competitive ETCs would receive \$3.59 per line per month of support for any customers they serve in these

1 b. CVT’s network serves predominantly low-cost customers within the city
2 limits of Macon, and not the higher-cost customers in the outlying areas of
3 the Macon exchange.

4 c. At 62.5 persons per square mile, the average population density in the
5 Macon exchange is significantly above the average population density in
6 Zone 1, in violation of the creamskimming test described in the *Virginia*
7 *Cellular Order*.

8 3. The CVT application is one of three pending ETC applications for the Macon
9 exchange area, including US Cellular and the wireless affiliate of CVT,
10 Missouri RSA No. 5 Partnership d/b/a Chariton Valley Wireless Services.
11 Given that universal service funds are a scarce public resource, the
12 Commission should give careful consideration to how many competitive
13 ETCs Missouri customers need – and can afford – in any particular rural
14 exchange area. It is also difficult to visualize a situation with four “Carriers
15 of Last Resort.”

16 4. CVT has failed in its application and testimony to prove that its application
17 for ETC status is in the public interest, and thus its application should be
18 denied.

19 **COMMISSION RESPONSIBILITIES UNDER THE 1996 ACT.**

exchanges. Zone 2 consists of the remaining 94 exchanges, with Competitive ETCs receiving \$15.22 per line per month for customers in these exchanges. The Macon exchange, for which CVT requests ETC status, is in Zone 1.

1 **Q. What are the key sections of the Telecommunications Act of 1996 and the**
2 **FCC rules that deal with universal service and the public interest test for**
3 **designating a second ETC?**

4 A. Section 214(e) of the 1996 Act (47 U.S.C. § 214(e)) deals with the designation of
5 multiple ETCs; 47 CFR 54.201 contains the FCC's corresponding regulations.

6 **Q. Please summarize the key elements of Section 214(e) and FCC rule 54.201**
7 **regarding the designation of multiple ETCs.**

8 A. 47 U.S.C. Section 214(e)(1) states that, to be eligible for ETC status, a carrier
9 must offer the defined universal service elements (the FCC rules currently define nine
10 elements) throughout the service area for which the designation is received, and advertise
11 the availability of such services in media of general distribution. Section 214(e)(2) states
12 that, consistent with the public interest, convenience and necessity, the Commission *may*,
13 for rural telephone companies, and *shall*, for non-rural companies, designate more than
14 one ETC. It further states that, "before designating an additional [ETC] for an area
15 served by a rural telephone company, the State commission shall find that the designation
16 is in the public interest." FCC Rule 54.201 contains very similar language. As stated
17 earlier in my testimony, Spectra is a rural telephone company under the terms of the
18 Telecommunications Act of 1996 (1996 Act).

19 **Q. You said that Section 214(e)(2) states that before approving an additional**
20 **ETC in an area served by a rural telephone company, the state commission must**
21 **first find such designation to be in the public interest. Does the 1996 Act or the FCC**
22 **regulations say how this determination should be made?**

1 A. While neither the 1996 Act nor the FCC rules provide specific guidance in
2 conducting the public interest test, over the past five years the FCC has issued a series of
3 decisions that have provided an evolving set of guidelines regarding how it believes that
4 the public interest determination should be made. In looking back over this time period
5 there have been three distinct phases in the evolution of the FCC's thinking. The specific
6 orders that defined these phases, and some of the key characteristics of the public interest
7 criteria utilized during each phase are as follows:

8 **1. The *Wyoming and Alabama Orders*;**

- 9 • December, 2000 through January, 2004
- 10 • Competition defines the public interest
- 11 • Designation of multiple ETCs would advance competition in high-cost
12 rural areas, and therefore is in the public interest
- 13 • Although not formally stated, burden was on the wireline incumbent to
14 prove that the ETC designation was not in the public interest

15 **2. The *Virginia Cellular Order*:**

- 16 • January, 2004 through March, 2005;
- 17 • Competition, alone, was not sufficient to satisfy the public interest test
- 18 • A more stringent, public interest test was necessary due to rapid growth in
19 support to competitive ETCs;
- 20 • A fact-specific analysis was required to demonstrate that the benefits of
21 designating multiple ETCs outweighed the costs of supporting multiple
22 networks;
- 23 • The competitive ETC must demonstrate its commitment and ability to
24 provide the supported services throughout the designated service area
25 within a reasonable time frame; and
- 26 • It was clearly stated that the burden is on the ETC applicant to prove that
27 its designation as an ETC in the rural telephone company is in the public
28 interest.

1 **3. The March 17, 2005 ETC Designation Order**

- 2 • This Order was issued in response to a Recommended Decision by the
3 Federal-State Joint Board on Universal Service released February 27,
4 2004.
- 5 • The Order provides that in satisfying its burden of proof, the ETC
6 applicant must:
- 7 ➤ Provide a five-year plan demonstrating how high-cost universal
8 service support will be used to improve its coverage, service quality or
9 capacity in every wire center for which it seeks designation and
10 expects to receive universal service support;
- 11 ➤ Demonstrate its ability to remain functional in emergency situations;
- 12 ➤ Demonstrate that it will satisfy consumer protection and service
13 quality standards;
- 14 ➤ Offer local usage plans comparable to those offered by the ILEC in the
15 areas for which it seeks designation; and
- 16 ➤ Acknowledge that it may be required to provide equal access if all
17 other ETCs in the designated service area relinquish their designation.

18 **Q. Could you generally describe the requirements established in the *Wyoming***
19 **and *Alabama* Orders, and the impact that these Orders had on the designation of**
20 **competitive ETCs at the state and federal level?**

21 A. One of the first competitive ETC designations issued by the FCC was in the case
22 of Western Wireless in the state of Wyoming.⁴ In approving this designation the FCC
23 stated its expectation that:

24 Wyoming consumers will benefit from the provision of competitive service and
25 new technologies in high-cost and rural areas. An important goal of the Act is to
26 open local telecommunications markets to competition. Designation of
27 competitive ETCs promotes competition and benefits consumers in rural and
28 high-cost areas by increasing customer choice, innovative services, and new
29 technologies.

⁴ *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. (Wyoming Order)I

1
2 Similar to the Wyoming Order, the Order in the application of RCC Holdings for
3 ETC status in Alabama⁵ found that designating RCC as an ETC “serves the public
4 interest by promoting competition and the provision of new technologies to consumers in
5 high-cost and rural areas.”⁶ The Order dismisses concerns raised by parties regarding the
6 impact of multiple ETC designations on the size of the fund by stating “we find that these
7 issues reach beyond the scope of this Order, which designates a particular carrier as an
8 ETC.”⁷ The Alabama and Wyoming Orders became the templates for many of the early
9 state ETC decisions. Since the public interest standards were very low, virtually all of
10 these designation requests were approved.

11 **Q. How did the *Virginia Cellular* Order change the guidelines for the ETC**
12 **designation process?**

13 A. The *Virginia Cellular* Order makes clear that “competition, by itself, is not
14 sufficient to satisfy the public interest test in rural areas”.⁸ The FCC concluded that “the
15 balancing of benefits and costs is a fact-specific exercise”,⁹ and that “the burden of proof
16 [is] upon the ETC applicant.”¹⁰ The analysis must focus on “the benefits of *increased*
17 competitive choice [and] the impact of *multiple* designations on the universal service
18 fund.”¹¹ Further, the ETC applicant has an “obligation to serve the designated service
19 area within a reasonable time frame,”¹² and the competitive ETC must “submit records

⁵ *In the Matter of Federal-State Joint Board on Universal Service, RCC Holdings, Inc. Petition for Designation as an Eligible Telecommunications Carrier Throughout its Licensed Service Area in the State of Alabama*, CC Docket No. 96-45, DA 02-3181, released November 27, 2002. (Alabama Order)

⁶ *Id.* at paragraph 1.

⁷ *Id.* at paragraph 3.

⁸ *Id.* at paragraph 4.

⁹ *Id.* at paragraph 28.

¹⁰ *Id.* at paragraph 26.

¹¹ *Id.* at paragraph 4 (emphasis added).

¹² *Id.* at paragraph 28.

1 and documentation on an annual basis detailing its progress towards meeting its build-out
2 plans in the service areas it is designated as an ETC.”¹³ Based upon these more rigorous
3 standards, a number of states began to reject applications where an ETC applicant did not
4 meet the burden of establishing that its designation would be in the public interest.

5 **Q. How did the FCC’s March 17, 2005 *ETC Designation Order* expand upon the**
6 **public interest criteria established in the Virginia Cellular Order?**

7 A. In this Order the FCC adopted mandatory minimum requirements for a
8 telecommunications carrier to be designated as an ETC in proceedings where the FCC
9 has jurisdiction to make this designation. The Order states that “these requirements
10 create a more rigorous ETC designation process [and that] their application by [the FCC]
11 and state commissions will improve the long term sustainability of the universal service
12 fund.”¹⁴ The FCC describes these standards as follows:

13 Specifically, in considering whether a common carrier has satisfied its burden of
14 proof necessary to obtain ETC designation, we require that the applicant:

- 15 1. Provide a five-year plan demonstrating how high-cost universal service
16 support will be used to improve its coverage, service quality or capacity in
17 every wire center for which it seeks designation and expects to receive
18 universal service support;
- 19 2. Demonstrate its ability to remain functional in emergency situations;
- 20 3. Demonstrate that it will satisfy consumer protection and service quality
21 standards;
- 22 4. Offer local usage plans comparable to those offered by the incumbent
23 local exchange carrier (LEC) in the areas for which it seeks designation;
24 and
- 25 5. Acknowledge that it may be required to provide equal access if all other
26 ETCs in the designated service area relinquish their designations pursuant
27 to section 214(e)(4) of the Act.

28
29 **Q. Does the ETC Designation Order address the applicability of these**

¹³ *Id.* at paragraph 46.

¹⁴ *Report and Order*, CC Docket No. 96-45, FCC 05-46, released March 17, 2005, at paragraph 2 (emphasis added).

1 **mandatory minimum requirements on state Commissions?**

2 A. While the 1996 Act explicitly grants to this Commission the responsibility for
3 making the public interest finding, at several places in the Order the FCC provides
4 specific encouragement for state commission's to adopt these same standards in their
5 ETC designation proceedings:

6 We believe that application of these additional requirements by the [FCC] *and*
7 *state commissions* will allow for a more predictable ETC designation process.¹⁵

8

9 We encourage state commissions to require all ETC applicants over which they
10 have jurisdiction to meet the same conditions and to conduct the same public
11 interest analysis outlined in this Report and Order.¹⁶

12

13 In addition to the formal language in the Order, two of the FCC Commissioners issued
14 separate statements in which they commented on the need for states to adopt similar ETC
15 designation standards:

16 **Commissioner Kathleen Abernathy**

17 I am pleased that the Commission has endorsed the Joint Board's
18 recommendations, and I hope that state commissions and the FCC heed this
19 guidance in upcoming designation proceedings.

20

21 **Commissioner Michael Copps**

22 This is long overdue, and I am pleased to support it. I especially am encouraged
23 by the build-out plans, reporting requirements and annual certifications that we
24 require in this decision. Collectively, these will provide this Commission and our
25 state counterparts with a way to monitor and ensure that ETC funding truly is
26 being used to preserve and advance universal service.

27

28 **Q. How do the mandatory minimum requirements in the FCC Order compare**
29 **with the draft ETC designation rules that have been prepared by the Commission?**

30 A. I have reviewed the draft rule 4 CSR 240-3.570 recently proposed by the
31 Commission Staff, and find it to be generally similar to the requirements contained in the

¹⁵ ETC Designation Order at paragraph 1 (emphasis .added).

¹⁶ *Id* at paragraph 58.

1 FCC Order. In several areas it appears to go even farther than the FCC requirements in
2 requesting more detail regarding the five year build-out plan, and providing more specific
3 consumer protection provisions. Overall, Spectra supports the proposed rule, and
4 believes that it offers a sound platform to evaluate the public interest impacts of ETC
5 applications and to assure that finite universal service funds are being used to preserve
6 and advance universal service.

7 **Q. Could you summarize your recommendations on the factors the Commission**
8 **should consider as it conducts its public interest analysis?**

9 A. The Commission must ensure that scarce public funds are spent wisely and for the
10 purposes for which they were intended. It has an obligation to ensure provider
11 accountability. Thus, the Commission should approve additional ETCs in rural areas
12 only when the increased public benefits that will come from supporting multiple carriers
13 can be shown to clearly exceed the costs that are created by supporting multiple
14 networks. The criteria outlined by the FCC in its March 17, 2005 Order can and should
15 be applied as the Commission determines if CVT's application for ETC status is in the
16 public interest.

17 **PUBLIC INTEREST ANALYSIS**

18 **Q. Could you please describe the public interest analysis process that the FCC**
19 **established in the *ETC Designation Order*?**

20 A. The FCC has established a three-step process for the evaluation of the public
21 interest aspects of an application for ETC status in an area:

22 1. The Commission must determine that the ETC applicant meets the minimum
23 criteria for ETC designation. As described previously, these include:

- 1 a. The five-year build-out plan;
- 2 b. Demonstration of ability to remain functional in emergency situations;
- 3 c. Compliance with consumer protection and service quality standards
- 4 d. Local usage plans comparable to the incumbent; and
- 5 e. Acknowledgement of the need to provide equal access to long distance
- 6 providers if the incumbent relinquishes ETC status.
- 7 2. The ETC applicant must prove that it satisfies the cost/benefit test by
- 8 demonstrating:
- 9 a. The benefits of *increased* customer choice; and
- 10 b. The unique advantages and disadvantages of the particular service
- 11 offering.¹⁷
- 12 3. The Commission must closely examine an ETC application that seeks designation
- 13 below the study area level of a rural ILEC to determine the potential for rural
- 14 creamskimming.¹⁸

15 **MINIMUM QUALIFICATION CRITERIA**

16 **Q. Has CVT satisfied the first prong of this test that its application meet the**
17 **minimum ETC qualification criteria?**

18 A. No. One of the more significant failings of CVT's application is that it has not
19 provided the five-year build-out plan to demonstrate how it proposes to use high-cost
20 funds to serve throughout the ETC service area and benefit rural Missouri consumers.

¹⁷ *ETC Designation Order* at paragraph 44.

¹⁸ *Id* at paragraph 48.

1 **Q. On page 14 of his testimony, Mr. Simon claims that under the terms of the**
2 **ETC Designation Order CVT is not required to submit a five-year build-out plan**
3 **until October 1, 2006. Do you agree with his conclusions?**

4 A. No. First of all, the FCC has applied this provision primarily to wireless carriers
5 that had applications for ETC status pending before the new rules became effective, and
6 only if the FCC had otherwise determined that approval of the application were in the
7 public interest. As a threshold matter, this Commission is not bound by the terms of the
8 *ETC Designation Order*. Section 214(e) of the 1996 Act gives this Commission
9 exclusive authority to make the required public interest determination. The FCC has
10 encouraged state commissions to adopt the ETC analysis and designation criteria in the
11 *ETC Designation Order*, and the Commission's draft rules indicate that it agrees that
12 these criteria form an effective platform to analyze and rule on competitive ETC requests.
13 Second, the submission of a 5-year plan is not a perfunctory exercise that merely results
14 in checking of a box on the approval check list. Even more important than the fact that
15 the plan is submitted is what it actually says in terms of the applicant's commitment to
16 invest high-cost funds to benefit rural Missouri consumers. This becomes an
17 indispensable component of the cost/benefit test that is at the heart of the ETC analysis
18 and approval process. Finally, virtually all of the recent FCC precedent in designating
19 competitive ETCs involves wireless carriers seeking to expand service into sparsely
20 populated, high-cost rural areas. In this case the Commission must evaluate how a
21 facilities-based CLEC employing fiber-to-the-premises technology, primarily in a
22 densely populated service area within the city limits of Macon, Missouri will use high-
23 cost support to benefit high-cost rural Missouri consumers. I do not see how the

1 Commission can perform its public interest analysis without seeing exactly if and how
2 the requested funds would be used to benefit rural consumers – and that is the purpose of
3 the 5-year plan. Thus the omission of this plan is a serious and fatal shortcoming of
4 CVT’s application.

5 **COST BENEFIT ANALYSIS**

6 **Q. Has CVT met the second prong of the public interest test – meeting its**
7 **burden of proof that its designation would create greater public benefits than it**
8 **would create public costs?**

9 A. No. Most of the public interest justification in Mr. Simon’s testimony is based
10 upon the premise that designating CVT as an ETC in the Macon exchange would
11 somehow increase competition and that would be in the public interest. As I outlined
12 earlier in my testimony, in some of the early FCC decisions “competition” was one of the
13 primary benefits cited. Beginning with the *Virginia Cellular* decision in January of 2004,
14 and continuing through the *ETC Designation Order*, the FCC has made abundantly clear
15 that competition alone is not a sufficient public interest justification. Particularly in the
16 case of fiber-to-the premises CLEC such as CVT, the Commission must determine
17 exactly what the ETC applicant is willing to commit to do with high-cost fund, and
18 exactly how that would benefit rural Missouri consumers. . Furthermore, CVT is already
19 actively competing with Spectra in Macon, and it is not clear how granting it access to
20 “high-cost” universal service funds would increase that competition. As cited previously,
21 the *Virginia Cellular* order made abundantly clear that “the balancing of benefits and
22 costs is a fact-specific exercise.” CVT’s application and testimony is completely devoid
23 of the type of facts and data necessary for it to perform its statutory obligations. As a

1 result of this shortcoming, CVT has failed to meet its burden of proof that approval of its
2 application would be in the public interest.

3 **Q. On page 9 of his testimony, Mr. Simon cites this Commission's earlier**
4 **approval of Mark Twain as a competitive ETC in several of Spectra's exchanges as**
5 **a reason why its application in Macon should be approved. Do you agree with his**
6 **reasoning?**

7 A. No. The Mark Twain application was approved in June of 2000, in the very early
8 stages of the evolution of ETC and public interest policy. The current rules and
9 guidelines have set a higher bar for the justification of benefits and costs, and CVT's
10 application falls woefully short of meeting the new requirements.

11 **RURAL CREAMSKIMMING ANALYSIS**

12 **Q. What is the definition of Rural Creamskimming?**

13 A. The FCC defined "rural creamskimming" in the *Virginia Cellular Order*. In
14 paragraph 32 of that Order, the FCC states:

15 Rural creamskimming occurs when competitors seek to serve only the low-cost,
16 high revenue customers in a rural telephone company's study area.

17
18 **Q. Have you conducted an analysis of the CVT application to determine if rural**
19 **creamskimming would result from the granting of its application?**

20 A. Yes, I have conducted three specific tests for rural creamskimming under the
21 FCC's definition, each of which confirms that grant of CVT's application would result in
22 a prohibited creamskimming situation.

23 **Q. Please describe the first of your rural creamskimming tests.**

24 A. My first test is to examine the cost of serving the Macon exchange as compared to
25 the cost of serving the other 105 wire centers in the Spectra study area. The results of

1 this comparison are shown on Schedule GHB-1.¹⁹ The average cost of serving customers
2 in the Macon wire center is \$32.19 per line per month. This is the lowest average cost of
3 all of the 106 Spectra exchanges. Costs within the Spectra study area range from a low
4 of \$32.19 in Macon to a high of \$261.67 per line per month in Stoutsville, with the
5 average cost of all 106 exchanges being \$60.14. Within USF support Zone 1, costs range
6 from a low of \$32.19 in Macon to a high of \$49.67 in Kahoka, with the average cost for
7 the 12 Zone 1 wire centers being \$40.73. Since the Macon exchange is the lowest cost of
8 all of the Spectra wire centers, granting CVT ETC status only for Macon would represent
9 a clear-cut and undeniable case of rural creamskimming.

10 **Q. What is the source of the cost figures shown on Schedule GHB-1?**

11 A. These cost figures come from the disaggregation study submitted by Spectra to
12 the Commission on May 10, 2002. A copy of this disaggregation study is also provided
13 as Schedule JS 3 to Mr. Simon's testimony.

14 **Q. Are you familiar with the Spectra disaggregation study?**

15 A. Yes, I prepared this study for Spectra.

16 **Q. On page 19 of his testimony, Mr. Simon claims that because Spectra has filed**
17 **a disaggregation plan with the Commission that creamskimming cannot exist in this**
18 **case. Do you agree with this conclusion?**

19 A. No. Mr. Simon obviously does not understand how high-cost support in the
20 Spectra wire center was disaggregated. Prior to the disaggregation filing, all 106
21 exchanges received support at an effective rate of \$10.80 per line per month. The

¹⁹ Schedule GHB-1 only shows wire center detail for Zone 1, since this is the relevant comparison in considering CVT's application. Schedule GHB-4 provides similar detail for all 106 Spectra wire centers, including both Zones 1 and 2.

1 disaggregation plan separated these exchanges into two groups. Zone 1 was comprised
2 of the 12 lowest-cost exchanges that, based on the average cost across all of these
3 exchanges, in which a competitive ETC, if approved, would receive \$3.59 per line per
4 month in high-cost support. Zone 2 was composed of the 94 remaining higher-cost
5 exchanges where a competitive ETC would receive \$15.22 per month. It is significant
6 that the \$3.59 of support is based upon the \$40.73 average cost of all of the wire centers
7 in Zone 1. CVT proposes to only serve customers in the Macon exchange which has a
8 cost of \$32.19. The Macon cost is \$8.54 less than the \$40.73 average cost for Zone 1 for
9 which Spectra receives \$3.59 per line per month of support. Thus, if CVT were to get
10 ETC status it would be receiving high-cost support for serving low-cost customers. This
11 is the classic definition of creamskimming.

12 **Q. Does Spectra receive \$3.59 for each of its customers in the Macon exchange?**

13 A. No. Spectra receives a total amount of high-cost support, as computed USAC,
14 based upon costs for serving all of its customers throughout the entire study area. Per-
15 line support (in the case of Zone 1 - \$3.59) is only computed as a mathematical exercise
16 to determine the amount of support that might be provided to a competitive ETC if one
17 were designated within Zone 1 of the Spectra study area. Given the very low cost of the
18 Macon exchange vis-à-vis the other 105 exchanges, it is reasonable to state that none of
19 this support goes to Macon lines. Thus, contrary to its claims, CVT is at no competitive
20 disadvantage to Spectra if it does not receive ETC status and high-cost support.

21 **Q. Does the fact that Macon is the only exchange in the Spectra study area that**
22 **CVT serves mitigate the creamskimming concerns in any way?**

1 A. No. The FCC directly addresses this situation in paragraph 33 of the Virginia
2 Cellular Order:

3 At the same time, we recognize that, for reasons beyond the competitive carrier's
4 control, the lowest cost portion of a rural study area may be the only portion of
5 the study area that [a carrier's network serves]. Under these circumstances,
6 granting a carrier ETC designation for only its ... portion of the rural study area
7 would have the same effect on the ILEC as rural creamskimming.
8

9 **Q. What is the second creamskimming test that you applied to CVT's**
10 **application?**

11 A. My second creamskimming test involved looking at the portions of the Macon
12 exchange area that CVT serves, compared with the portions of the exchange area that it
13 does not serve. On page 6 of his testimony Mr. Simon states "The network consists of
14 four (4) fiber nodes within the city limits of Macon with fiber buried to most business
15 and residential locations." Schedule GHB-2 is a map of showing the boundary for the
16 Macon wire center area as well as Macon city limits. The map is color-coded based upon
17 household density, with the green areas being the most dense (200 households per square
18 mile and up), and the salmon color being the least dense (5 households per square mile or
19 less). If I understand Mr. Simon's testimony correctly, CVT's network is primarily
20 within the densely populated city limits of Macon.

21 **Q. Were you able to determine the population density within the city limits as**
22 **well as the density outside the city limits where you believe CVT does not serve?**

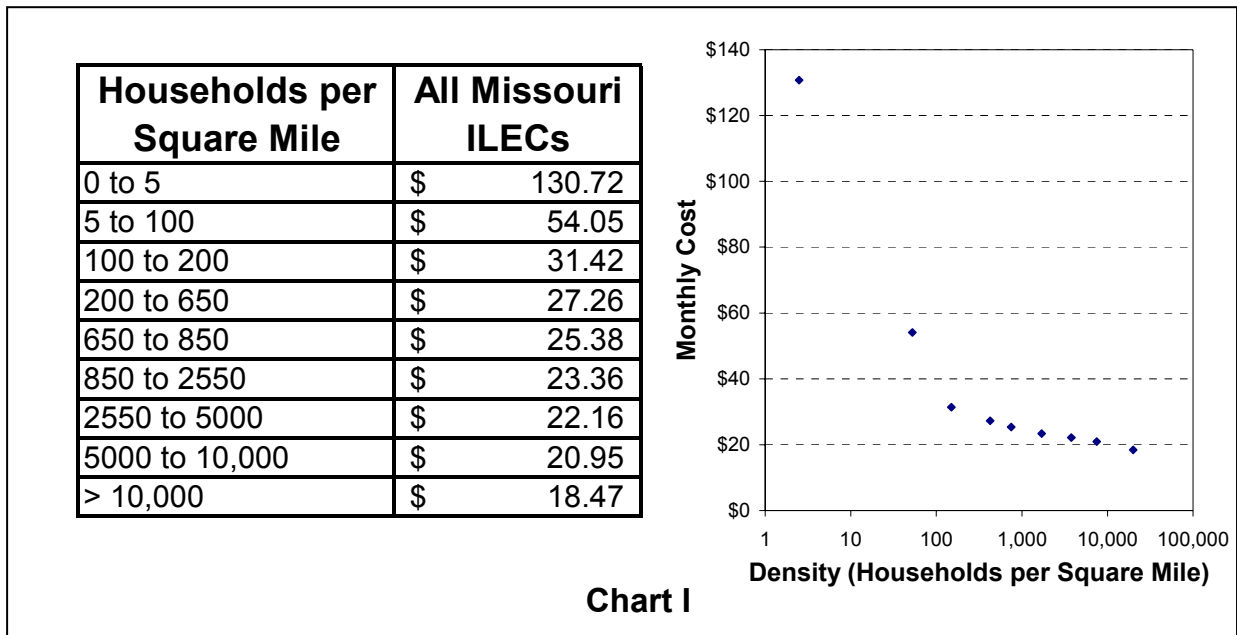
23 A. Yes. Using MapInfo software, housing statistics at the Census Block level from
24 the 2000 Census, and the boundaries as shown on Schedule GHB-2 I was able to
25 compute the following population density statistics shown on Table I:

	Households	Area (mi ²)	Density (HH/mi ²)
Within City Limits	2,700	5.9	457.6
Outside City Limits	1,049	122.3	8.6
Total Macon Exchange	3,749	128.2	29.2

Table I

Q. Is it possible to develop a relationship between population density and cost?

A. Yes. The following Chart I summarizes data taken from the BCPM model (the same model that was used to determine the wire center cost data used in the Spectra disaggregation study (JS Schedule 3). Chart 1 shows the average cost for each density zone taken from data for all study areas in the state of Missouri.



Q. What conclusions do you draw from this data?

A. This data clearly illustrates how densely populated areas are relatively inexpensive to serve, and that costs increase as density decreases. At population densities below 100 households per square mile, costs increase dramatically and geometrically. To the extent that CVT serves primarily within the city limits, where population density is high, it serves the lower cost customers within the Macon exchange.

1 To the extent that the Macon exchange does receive high-cost support, it is for the benefit
2 of customers living in the more remote, sparsely populated and costly portions of the
3 study area. These are areas where CVT currently does not serve, and CVT has provided
4 no build-out plans indicating any commitment to do so. Thus, if CVT were to receive
5 “high-cost” support it would be for serving low-cost customers, which again is the
6 definition of rural creamskimming.

7 **Q. What is the third creamskimming test that you applied?**

8 A. The third creamskimming test involves comparing the average population density
9 in the Macon wire center with the average population density in the Zone 1 as well as
10 with the remainder of the Spectra study area. This is the test that the FCC first described
11 in the *Virginia Cellular Order*, and also described in the *ETC Designation Order*.

12 **Q. If this is the test that the FCC applied, why is it the third one that you are**
13 **describing in your analysis of CVT’s application?**

14 A. In describing the population density test in the Virginia Cellular decision, the
15 FCC stated:

16 Our analysis of the population density of each of the affected wire centers reveals
17 that, for the study areas of MGW and Shenandoah, Virginia Cellular will not be
18 serving only low-cost areas to the exclusion of high-cost areas. Although there
19 are other factors that define high-cost areas, a low population density typically
20 indicates a high-cost area.

21

1 Thus, the FCC acknowledges that the use of population density is an imperfect, but
2 useful, measure of relative cost. Many other factors besides average population density
3 can and do influence cost. A good example would be the relative presence of absence of
4 clustering of customers within an exchange area. As shown on Chart I, when customers
5 are located in close proximity to each other they are relatively inexpensive to serve.
6 When they are more dispersed throughout an area they are more costly to serve. An
7 example may be helpful to make this point. Take two hypothetical study areas of equal
8 size and with an equal number of customers, and thus equal average population density.
9 If study area A has almost all of its customers clustered in a single town within the study
10 area, while study area B has its customers more uniformly distributed throughout the
11 study area, study area A will have a significantly lower average cost per customer than
12 study area B where customers are more widely dispersed. A cost model, such as that
13 used in the Spectra disaggregation study will take such differences into account, and thus
14 provides a more accurate estimation of average wire center cost than the average
15 population density method.

16 **Q. Does the average population density test indicate creamskimming would be**
17 **present with the CVT application.**

18 A. Yes. Schedule GHB-3 shows the average population density for the Macon
19 exchange and the other Zone 1 exchanges, as well as the average population density for
20 Zone 1, Zone 2, and then entire Spectra study area. The average population density in
21 the Macon exchange is 62.5 persons per square mile versus an average of 50.8 for Zone
22 1, 15.9 for Zone 2, and 21.2 persons per square mile in the entire Spectra study area.
23 Since the average density in Macon is significantly lower than the average population

1 density in Zone 1, providing support to CVT's Macon operations based upon the average
2 costs in Zone 1 would result in providing high-cost support for serving lower-cost
3 customers, which is the definition of rural creamskimming. This, of course, confirms the
4 conclusions that I reached as a result of my first two tests.

5 **OTHER FACTORS**

6 **Q. Are there any other factors that the Commission should take into**
7 **consideration when evaluating CVT's request?**

8 A. Yes. CVT is not the only competitive carrier requesting ETC status in the Macon
9 exchange. Two other carriers, US Cellular and, most recently, Missouri RSA No. 5
10 Partnership d/b/a Chariton Valley Wireless Services, an affiliate of CVT, have also
11 applied for ETC status in the Macon wire center. Given that universal service funds are a
12 scarce public resource, the Commission should give careful consideration to how many
13 competitive ETCs Missouri customers need – and can afford – in any particular rural
14 exchange area. One of the fundamental purposes of high-cost universal service support is
15 to assure that at least one carrier is capable of serving as dependable Carrier of Last
16 Resort (COLR). It is difficult to visualize with the need for or the purpose of having four
17 COLRs. This situation is further complicated in this case by the fact that two of the
18 carriers in this case, Chariton Valley Telecom and Chariton Valley Wireless, are affiliates
19 of the same parent, serving the Macon service area with different technologies..

1 **CONCLUSION**

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

3 A. The public interest process outlined in the FCC's *ETC Designation Order* relies
4 on a two-part public interest test followed by, in the case of a rural study area such as
5 Spectra, a creamskimming analysis. Based upon the facts and data that I have presented
6 in my testimony it is clear that CVT's application fails both parts of the public interest
7 test as well as the creamskimming analysis. It fails to meet the minimum ETC eligibility
8 requirements since CVT has not provided a five-year plan indicating how the support that
9 it would receive would be used to improve coverage throughout the service area. It fails
10 the cost/benefit analysis, since it fails to identify how consumer choice would be
11 increased in the Macon wire center beyond what exists today. Furthermore, it does not
12 quantify advantages or disadvantages of its service offering that would justify the
13 increase in public funding that it requests. Its sole public interest justification is that ETC
14 designation would somehow increase competition – a standard that the FCC has long
15 since discarded.

16 Even if CVT met the minimum requirements for ETC designation and passed the
17 cost/benefit analysis (which it does not) the Commission would still have no choice but
18 to deny CVT's application since it presents a clear-cut case of rural creamskimming. The
19 Macon exchange is the only one of the 106 Spectra exchanges that CVT proposes to
20 serve. It is also the lowest-cost of all of the Spectra exchanges. Providing CVT with
21 support based on the average cost for all Zone 1 exchanges would result in providing
22 high-cost support for serving predominantly low-cost areas. Furthermore, CVT has
23 invested in facilities predominantly in the densely-populated city limits of Macon, and

1 has provided no plans to the Commission that would indicate that it intends to extent its
2 facilities into the more sparsely populated and higher cost areas of the Macon wire
3 center.

4 For all of these reasons, the Commission has no choice but to deny CVT's
5 application.

6 **Q, Does this conclude your testimony at this time?**

7 A. Yes.

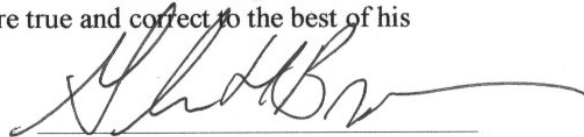
**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Application of)
Chariton Valley Telecom Corporation)
For Designation as a Telecommunications)
Carrier Eligible for Federal Universal) Case No. TO-2005-0423
Service Support pursuant to Section 254)
Of the Telecommunications Act of 1996)

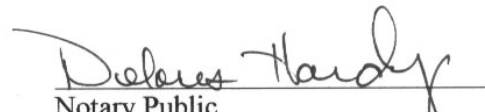
AFFIDAVIT OF GLENN BROWN

State of Arizona)
) ss.
County of Yavapai)

Glenn Brown, being of lawful age, on his oath states: that he has participated in the preparation of the foregoing Rebuttal Testimony in question and answer form, consisting of 25 pages to be presented in the above case; that the answers in the foregoing Rebuttal Testimony were given by him; that he has knowledge of the matters set forth in such answers; and that such matters are true and correct to the best of his knowledge, information and belief.


Glenn Brown

Subscribed and sworn to before me this 1 day of ^{Nov.}~~October~~, 2005.


Notary Public

DELORES HARDY
Notary Public of District of Columbia
My Commission Expires April 30, 2008

(seal)

