March 3, 2005

Mr. Chairman and members of the Committee:

My name is Catherine Moyer. I am the Director of Legal and Regulatory Affairs for WestLink Communications, LLC. With me is Bill Hayden, the Director of Wireless Operations for WestLink. We are both happy to appear today at the request of the Chairman.

WestLink's headquarters is located in Ulysses, Kansas. The operations office is located in Hays, Kansas, as it is a more central location to WestLink's current network build-out. WestLink is a wholly owned subsidiary of an independent local exchange carrier, Pioneer Communications.

This morning Bill and I will give you an overview of WestLink the company, as well as insight into serving rural Kansas with wireless service. Bill is going to give a presentation featuring the formation of WestLink, the technology and equipment utilized, and the unique challenges of providing wireless service to a rural area. Following Bill's presentation, I will give you a brief overview of two important issues facing WestLink, as well as WestLink's point of view on these issues. Subsequent to that overview, Bill and I will be available for any questions you might have.

Bill and I are appearing today in an educational capacity. We are not asking the Committee to take any action on behalf of WestLink and its customers.

(Bill Hayden's presentation.)

Two of the hottest topics in the wireless industry today are eligible telecommunications carrier status and interconnection of wireless providers and wireline providers.

Eligible telecommunications carrier status, or ETC status, is a provision included in the 1996 Telecommunications Act. A telecommunications carrier must achieve ETC status before that carrier is allowed to draw funds from the Universal Service Fund, USF for short. Additionally, in the state of Kansas, a telecommunications carrier must be declared an ETC before it can draw funds from the Kansas Universal Service Fund, or KUSF.

To be designated an ETC, a carrier must fit the definition provided in the 1996 Telecommunications Act, as well as the FCC Rules. The definition in the 1996 Act includes the carrier being a "common carrier" as defined by federal law, and providing and advertising the services supported by the USF mechanisms under Section 254(c). *(Telecommunications services that are essential to education, public health, and public safety, and are consistent with public interest, convenience and necessity. 47 U.S.C. § 254(c).)* The FCC Rules include things such as voice-grade access to the public switched telephone network, local usage, and single party service. *(The entire list includes: 1.*

voice-grade access to the public switched telephone network; 2. local usage; 3. dual-tone, multi-frequency (DTMF) signaling, or its functional equivalent; 4. single party service or its functional equivalent; 5. access to emergency services; 5. access to operator services; 6. access to interexchange service; 7. access to directory assistance; and 8. toll limitation for qualifying low-income consumers. 47 C.F.R. §§ 54.101(a)(1) – (9).)

Almost all rural wireline telecommunication carriers are ETCs, and are able to draw money from the USF. And until recently, only wireline carriers were designated as ETCs. However, currently there are several wireless carriers that have gone through the application process at both the federal and state levels to obtain ETC status. Today, these wireless carriers are drawing funds out of the USF, including wireless carriers in the state of Kansas.

WestLink is not currently drawing funds from the USF. The WestLink business plan does not include USF funds. However, direct competitors of WestLink, other wireless carriers, are drawing money from the USF for their wireless operations. In not drawing funds, WestLink is at a competitive disadvantage with the wireless carriers that are receiving money.

WestLink has made the decision to make an application to the Kansas Corporation Commission to be declared an ETC. If and when WestLink receives ETC status, WestLink can begin drawing money from the USF, leveling the playing field with those wireless carriers already receiving money.

The second hot topic in the wireless industry is the interconnection of wireless providers with wireline providers.

As any wireline local exchange carrier will tell you, wireless traffic is transiting their network, and they are not receiving payment for the use of the network. In the absence of a negotiated termination agreement, wireline carriers are not normally compensated by the wireless carriers for the traffic that the wireless carrier hands off to the wireline carrier. In the case of WestLink, we currently do not have any termination agreements in place. However, at the beginning of this year, WestLink took the first step in reach negotiated terminations agreements with wireline carriers by sending letters to those wireline carriers to whom WestLink hands off traffic. These letters are a request to begin negotiating termination agreements.

One reason negotiated termination agreements between wireline and wireless providers exist only in limited numbers is because under the 1996 Act, the wireless carrier has the responsibility of beginning the negotiations. In many cases, the wireless carriers did not exercise their responsibility, and the wireline carrier was unable to force the wireless carrier to negotiate.

However, just in the past few days, the Federal Communications Commission released an Order stating that either the wireless or wireline carrier can force negotiation. If there is a failure to negotiate, according to the FCC Order, either the wireless or wireless carrier may ask the state commission to arbitrate the negotiations.

Ahead of the FCC's Order, WestLink had taken the first step towards negotiating interconnection agreements with wireline carriers, as has one other wireless carrier in the state of Kansas. Obviously there are wireless carriers interested in playing by the rules, and others need just to be nudged in the right direction by the FCC Order.

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