

**BEFORE THE
MISSOURI PUBLIC SERVICE COMMISSION**

In the Matter of the Third Application of)	
Missouri RSA No. 7 Limited Partnership)	
d/b/a Mid-Missouri Cellular)	
for Designation as a Telecommunications)	Case No. TO-2005-_____
Company Carrier Eligible for Federal Universal)	
Service Support pursuant to § 254 of the)	
Telecommunications Act of 1996.)	

**APPLICATION FOR DESIGNATION AS AN
ELIGIBLE TELECOMMUNICATIONS CARRIER
PURSUANT TO § 254 OF THE TELECOMMUNICATIONS ACT OF 1996**

Comes now MISSOURI RSA No. 7 LIMITED PARTNERSHIP d/b/a MID-MISSOURI CELLULAR (“MMC”) pursuant to § 214(e)(2) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (“the Act”), as well as the Federal Communications Commission (“FCC”) regulations found at Section 54.201, *et seq.*, of the FCC’s Rules, 47 C.F.R. § 54.201 *et seq.*, and hereby requests that the Missouri Public Service Commission (the “Commission”) designate MMC as a telecommunications carrier eligible under the provisions of Section 54.201(d) to receive federal universal service support.

In support of this Application, MMC states as follows:

1. MMC is a telecommunications carrier authorized by the FCC to provide Commercial Mobile Radio Services (“CMRS”) in Missouri¹ pursuant to cellular radiotelephone licenses bearing Call Signs KNKN595 and KNKR207. MMC operates wireless network infrastructure facilities in designated areas of Missouri and provides telecommunications services

¹ MMC operates a CMRS network licensed by the Federal Communications Commission to serve Missouri RSA No. 7 and substantially all of Ray County, Missouri. Appended hereto as Appendix A is a map which graphically depicts MMC’s FCC-licensed service area.

over its own facilities to provide voice-grade access to the public switched telephone network, local usage, dual tone multi-frequency signaling or its functional equivalent, access to 911 and E911 emergency service, access to operator services, interexchange service, and to directory assistance. MMC is not certificated to provide telecommunications services in Missouri by the Commission.

2. MMC's street address and principal place of business is 1500 South Limit, Sedalia, MO 65301. MMC's telephone number is (660) 620-1114, and it can be reached by facsimile at (660) 620-1116. MMC is a Missouri Limited Partnership. The Partnership Agreement and Registration of Fictitious Name are presently on file with the Commission.² Attached hereto as Appendix B is the current ownership of MMC.

3. All correspondence, communications, pleadings, notices, orders and decisions relating to this Application should be addressed to:

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² See Case No. TO-2003-0531.

4. Under § 214(e)(1) of the Act, a telecommunications carrier may be designated as an ETC and thereby receive universal service support so long as the carrier, throughout its service areas: (a) offers the services that are supported by federal universal service support mechanisms under § 254(c) of the Act, either using its own facilities or a combination of its own facilities and resale of another carrier's services (including services offered by another ETC); and (b) advertises the availability of and charges for such services using media of general distribution. Section 54.201(b) of the FCC's Rules states that the Commission shall, on its own motion or upon request, designate a common carrier an ETC so long as the carrier meets the requirements of Section 54.201(d), which restates the requirements found in § 214(e)(1) of the Act. Section 214(e)(2) of the Act and Section 54.201(c) of the FCC's Rules state that the Commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an ETC for a service area the Commission designates, provided each additional requesting carrier satisfies § 214(e)(1) of the Act and Section 54.201(d) of the FCC's Rules. Before designating an additional ETC for an area served by a rural telephone company, the Commission shall find that such designation is in the public interest.

I. MMC PROVIDES THE CORE SERVICES REQUIRED TO QUALIFY FOR UNIVERSAL SERVICE SUPPORT

5. Pursuant to Section 54.101(a) of the FCC's Rules, the following core services and functions are to be offered by an ETC and should be supported by federal universal support mechanisms:

- (a) Voice grade access to the public switched network;
- (b) Local usage;
- (c) Dual tone multi-frequency signaling or its functional equivalent;

- (d) Single-party service or its functional equivalent;
- (e) Access to emergency services;
- (f) Access to operator services;
- (g) Access to interexchange service;
- (h) Access to directory assistance; and
- (i) Toll limitation for qualifying low-income consumers.³

These services and functions are described in greater detail below:

(a) Voice-Grade Access to the Public Switched Network. The FCC concluded that voice-grade access means the ability to make and receive phone calls, within a bandwidth of approximately 2700 Hertz, within the 300 to 3000 Hertz frequency range.⁴ As an existing cellular service provider in Missouri, MMC provides voice-grade access to the public switched network. Through interconnection with incumbent local exchange carriers, MMC is able to originate and terminate telephone service for all of its subscribers. All customers of MMC are able to make and receive calls on the public switched network within the specified bandwidth.

(b) Local Usage. MMC's service includes local usage that allows customers to originate and terminate calls within the local calling area without incurring toll charges. The service allows for a bundle of local calling minutes for a flat-rated monthly charge. MMC currently offers several service options that include varying amounts of

³ On December 30, 1997, the FCC changed its definition of toll-limitation services in its Fourth Order on Reconsideration of the Universal Service Report and Order, CC Docket Nos. 96-45 *et al.* The FCC stated, "we define toll-limitation services as either toll blocking or toll control and require telecommunications carriers to offer only one, and not necessarily both, of those services at this time in order to be designated as eligible telecommunications carriers." *Id.* at 210.

⁴ See Federal-State Board on Universal Service (First Report and Order in CC Docket No. 96-45) 12 FCC Rcd 8776, 8810-11 (1997) ("First Report and Order").

local usage in monthly service plans. To date, the FCC has not quantified any minimum amount of local usage required to be included in a universal service offering, but has initiated a separate proceeding to address this issue.⁵ Any minimum local usage requirement established by the FCC as a result of the above-mentioned proceeding will be applicable to all designated ETCs. MMC will comply with any and all minimum local usage requirements adopted by the FCC. Thus, even though the FCC has yet to adopt any specific quantity of minimum local usage ETCs must provide for designation, MMC satisfies the local usage criterion for ETC designation.

(c) Functional Equivalent of Touch-Tone (“DTMF”) Signaling. DTMF is a method of signaling that facilitates the transportation of call set-up and call detail information. Consistent with the principles of competitive and technological neutrality, the FCC permits carriers to provide signaling that is functionally equivalent to DTMF in satisfaction of this service requirement.⁶ MMC currently uses out-of-band digital signaling and in-band multi-frequency signaling that is functionally equivalent to DTMF signaling.⁷ MMC, therefore, meets the requirements of providing DTMF signaling or its functional equivalent.

(d) Single Party Service. “Single-party service” means that only one party will be served by a subscriber loop or access line, in contrast to a multi-party line.⁸

⁵ See, Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 13 FCC Rcd 21252 (1998).

⁶ 47 C.F.R. § 54.101(a)(3).

⁷ First Report and Order, 12 FCC Rcd at 8815, & 71 (1997).

⁸ See, 12 FCC Rcd at 8810.

⁸ *Id.*

The FCC concluded that a wireless provider offers the equivalent of single-party service when it offers a dedicated message path for the length of a user's particular transmission. MMC meets the requirement of single-party service by providing a dedicated message path for the length of all customer calls.⁹

(e) Access to Emergency Service. The ability to reach a public emergency service provider through dialing "911" is a required universal service offering. MMC customers can reach an emergency dispatch, or public safety answering point ("PSAP"), by dialing "911," which will route the call to the appropriate PSAP. Enhanced 911 ("E911"), which includes the capability of providing both automatic numbering information ("ANI") and automatic location information ("ALI"), is required only if a public emergency service provider makes arrangements with the local provider for delivery of such information. A wireless carrier such as MMC is not required to provide E911 services until a local emergency provider has made arrangements for delivery of ALI and ANI from carriers.¹⁰ In the wireless context, provision of location information is broken down into two phases; Phase I involves providing the PSAP with the location of the cell from which the 911 call originated and Phase II provides the location of the originating subscriber phone to within an FCC-specified accuracy. MMC's network is capable of providing Phase I E911 services, as a function of the capabilities of each PSAP throughout the MMC service area. In addition, the portions of the MMC network that have been overbuilt with CDMA technology are capable of supporting E911 Phase II services. Accordingly, MMC provides its subscribers with access to emergency services by dialing "911."

⁹ See, 12 FCC Rcd at 8815-8817.

(f) Access to Operator Services. Access to operator services is defined as any automatic or live assistance provided to a consumer to arrange for the billing or completion, or both, of a telephone call. MMC currently offers its subscribers access to operator services for the placement and billing of telephone calls, including collect calls, calling card calls, credit card calls, person-to-person calls, and third party calls, as well as obtaining related information, throughout its designated FCC service area. Therefore, MMC meets this requirement by providing all of its customers with access to operator services.

(g) Access to Interexchange Service. An ETC providing universal service must offer consumers access to interexchange service to make or receive toll or interexchange calls. Interexchange service access entails access to live or automatic operator assistance for the placement and billing of telephone calls, including collect calls, calling card calls, credit card calls, person-to-person calls, and third party calls, as well as obtaining related information. MMC has direct interconnection to an access tandem for delivering traffic to all offices subtending that tandem as well as direct interconnection to local exchange carrier end offices where traffic levels so justify. In addition, MMC provides indirect access to one or more interexchange carriers (“IXC”), for access to any other exchanges. As a result, MMC meets the requirement to provide all of its customers with the ability to make and receive interexchange or toll calls through the interconnection arrangements it has with its IXCs.

(h) Access to Directory Assistance. The ability to place a call to directory assistance is a required service offering of an ETC. MMC meets this requirement by

providing all of its customers with access to information contained in directory listings by dialing “411” or “555-1212.”

(i) Toll Limitation for Qualifying Low-Income Customers (Lifeline and Link-Up Services). Under Section 54.101(a)(9) of the FCC’s Rules,¹¹ ETCs must offer “Toll Limitation,” a term that denotes either “Toll Control” or “Toll Blocking” for carriers incapable of providing both services¹² to qualifying Lifeline and Link-Up universal service customers at no charge. Toll Blocking allows customers to block the completion of outgoing toll calls. Toll Control allows the customer to limit the dollar amount of toll charges a subscriber can incur during a billing period. If enrolled in the Federal Lifeline or Link-Up programs, a customer can choose to have MMC block all attempted toll calls originating from the customer’s phone. Currently, MMC provides Toll Blocking services for international calls. MMC will utilize the same Toll Blocking technology to provide toll limitation for qualifying low-income customers, at no charge, as part of its universal service offerings.

6. MMC will provide the foregoing services using its existing network infrastructure, which includes the same antenna, cell-site, tower, trunking, mobile switching, and interconnection facilities used to provide Commercial Mobile Service to its existing subscribers, as well as through additional cell sites if ETC designation is granted (*See*, Section IV, *infra*).

¹¹ *See* Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Fourth Order on Reconsideration, CC Docket Nos. 96-45, 96-262, 94-1, 91-213, 95-72, Report and Order, 13 FCC Rcd 5318 (1997).

¹² 47 C.F.R. § 54.400(d). For ETCs capable of providing both services, the term “Toll Limitation” includes “Toll Blocking” and “Toll Control.”

7. The Commission has determined that MMC is providing all of the services required to qualify for universal service fund support.¹³

8. MMC advertises the availability of and charges for its services using media of general distribution within its service area. The Commission has determined that MMC advertises the availability of its services and the charges for such through media of general distribution within its service territory.¹⁴ All of the facts upon which that finding was made remain accurate.

II. MMC'S PROPOSED ETC SERVICE AREA

9. MMC is not a "rural telephone company" as that term is defined by § 153(37) of the Act. Accordingly, MMC is required to describe the geographic area in which it requests designation as an ETC.¹⁵ MMC requests designation for its entire FCC-licensed service area in Missouri, subject to the limitations and exclusions described in this Section. A map of MMC's proposed ETC service areas is attached hereto as Appendix C.

10. Under Section 54.207(a) of the FCC's Rules, a "service area" is a "geographic area established by a state commission for the purpose of determining universal service obligations and support mechanisms." For non-rural service areas, there are no restrictions on how a state commission defines the "service area" for purposes of designating a competitive ETC. Therefore, the Commission may designate MMC as an ETC in the non-rural wire centers of Southwestern Bell Telephone Company ("SBC"), CenturyTel of Missouri, LLC (Central) and

¹³ *In the Matter of the Application of Missouri RSA No. 7 Limited Partnership d/b/a Mid-Missouri Cellular, for Designation as a Telecommunications Company Carrier Eligible for Federal Universal Service Support pursuant to § 254 of the Telecommunications Act of 1996. Report and Order, Case No. TO-2003-0531, (Rel. August 5, 2004) ("MMC-Report and Order") at p.5.*

¹⁴ *Id.*

¹⁵ *See* 47 U.S.C. § 214(e)(5); 47 C.F.R. § 54.207(a).

CenturyTel of Missouri, LLC (Southwest) (collectively, “CenturyTel”), as depicted on the map in Appendix C and listed in Appendix D.

11. In an area served by a rural telephone company, FCC rules define “service area” to mean the LEC study area unless a different service area definition is established for such company.¹⁶ As shown in Appendix C, MMC serves the entire rural LEC study areas of Alma Telephone Company (“Alma”) and Citizens Telephone Company (“Citizens”). The Commission may designate MMC as an ETC in those areas upon finding that such designation will be in the public interest (*See* Section IV, below).¹⁷

12. MMC is also licensed by the FCC to serve only a portion of the “study areas” of three additional rural telephone companies that provide service in Missouri. Specifically, MMC serves portions of the wire centers that comprise the study areas of Mid-Missouri Telephone Company (“MMTC”), Spectra Communications Group, LLC (“Spectra”) and Sprint/United Telephone Company of Missouri (“Sprint”).

13. MMC serves the entire Arrow Rock, Blackwater, Bunceton, Gilliam, Marshall Junction, Miami, Nelson, Pilot Grove and Speed wire centers of MMTC. MMTC provides service to three additional wire centers, Fortuna, High Point and Latham that lie in close proximity to, but just beyond, the MMC FCC-licensed service area. MMC proposes to include those three additional wire centers in its ETC service area and thereby avoid the need to redefine

¹⁶ See 47 C.F.R. § 54.207(b); *See also* Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, Fourteenth Report and Order, Twenty Second Order on Reconsideration, and Further Notice of Proposed Rulemaking, 16 FCC Rcd 11244, 11299-309 (2001) (“*Fourteenth Report and Order*”). The Commission has defined “study area” as the geographical area that typically corresponds to a carrier’s entire service area within a state or territory. *See, e.g.*, Micronesia Telecommunications Corp. Request for a Declaratory Ruling, 9 FCC Rcd 2032 (Com. Car. Bur. 1994); Petitions for Waivers filed by Golden Belt Telephone Association, Inc., 11 FCC Rcd 10165 (Accg. & Aud. Div. 1996).

¹⁷ 47 U.S.C. § 214(e)(2).

the MMTC service area to allow MMC to be designated as an ETC in only those MMTC wire centers that lie within its FCC-licensed service area. As the FCC has expressly permitted, the provision of service to subscribers in the portion of an ETC service area that lies beyond a wireless ETC's FCC licensed service may be provided by other carriers through roaming and/or resale agreements.

14. With respect to the Spectra service area, MMC seeks to include the Concordia wire centers in its proposed ETC service area.

15. With respect to the Sprint wire centers, MMC provides service to the Blackburn, Centerview, Greenridge, Hardin, Henrietta, Holden, Houstonia, Lexington, Malta Bend, Odessa, Sweet Springs, Waverly and Warrensburg wire centers in their entirety. In addition, MMC provides service to portions of the Blairstown, California, Chilhowee, Clarksburg, Cole Camp, Ionia, Kingsville, Leeton, Lone Jack, Oak Grove, Orrick, Otterville, Smithton, Strasburg, Syracuse, Tipton, Wellington and Windsor wire centers. As in the case of the MMTC wire centers that lie beyond the MMC FCC-licensed service area, MMC will provide service to subscribers in the portion of its ETC service area that lies beyond its FCC licensed service by using the facilities of other carriers through roaming and/or resale agreements. Accordingly, MMC is proposing to include these wire centers in their entirety within its proposed ETC designated service area.

16. It is important to note that MMC is ***not*** seeking to redefine the ***study*** area for either Spectra or Sprint. Rather, MMC is seeking only to redefine the LEC ***service*** areas for purposes of designating a Competitive ETC ("CETC"). As the FCC fully explained in *Virginia Cellular*,¹⁸ the proposed service area redefinition would have no impact on the rural LEC

¹⁸ *In the Matter of Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Application for Designation as an Eligible Telecommunications Carrier In the Commonwealth of*

reporting or administrative obligations.¹⁹ Specifically, the FCC found that redefining the rural telephone company *service* areas would not require rural telephone companies to determine their costs on any basis other than the *study* area level. The redefinition, therefore, only enables MMC, as an ETC, to serve an area that is smaller than the entire Incumbent LEC (“ILEC”) study area. Accordingly, MMC respectfully requests the redefinition of the ILEC *service* areas, but not *study* areas, as described above.

III. MMC’s PROPOSED LEC SERVICE AREA DEFINITION WILL NOT RESULT IN “CREAM-SKIMMING”

17. The level of support received by an ETC is based upon the level of support received by the ILEC in each part of the designated ETC service area. Where the rural carrier ILEC study areas used in determining the level of high cost support and the proposed ETC service area is not wholly encompassed within the proposed ETC designated service area, a potential “cream skimming” issue arises. Cream skimming occurs when a CETC serves only the lower cost portions of the LEC study area but receives support based upon costs that have been averaged and include those associated with providing service to the higher-cost portions of the LEC study area. In the context of the rural LEC service areas involved here, since MMC is proposing to include the entire study areas for Alma, Citizens and MMTC, the issue of potential “cream skimming” does not arise. However, this issue must be addressed with respect to the proposed service area re-definitions of Spectra and Sprint.

18. In its *Virginia Cellular* and *Highland Cellular* orders, the FCC examined the relative population densities for the portions of the study areas for each LEC that lie within the proposed CETC service area as compared to the population densities of the entire LEC study

Virginia, Memorandum Opinion and Order, CC Docket No. 96-45, FCC 03-338 (rel. January 22, 2004), (“Virginia Cellular”).

¹⁹ *Id.* at ¶ 42.

area. The FCC held that where the population densities of the entire ILEC study area are significantly lower than the population density within the ETC service area, cream skinning has occurred. That is **not** the case with respect to the redefinition proposed herein.

19. With respect to the proposed redefinition of Spectra, Spectra has disaggregated its study area into Zones. The Concordia wire center included in the proposed MMC ETC service area is located within Spectra's Zone 1. The average population density for the Concordia wire center is 38.93 persons per square mile; well below the overall population density of the Spectra's Zone 1 study area, which is 49.50 persons per square mile.²⁰ Accordingly, any level of support based upon the entire study area would have been determined on the average cost of providing service to a population density of 49.50. Since the population density within the disaggregated portion of the Spectra study area that lies within MMC's proposed ETC service area is below the population density of the entire Spectra disaggregated study area, the portion of the Spectra study area which MMC seeks to include in its ETC designated service area would be expected to have a higher cost of service than the average upon which the level of USF support is based. Accordingly, since the proposed redefined service area represents a population density below the average population density upon which the level of USF support for the ILEC was based, under established FCC precedent, there would be no cream skinning issue presented by the proposed redefinition of the Spectra service area.

20. With respect to the Sprint wire centers, those included within the proposed MMC ETC service area have an average population density of 43.32 persons per square mile as compared to a an overall study area population density of 54.00 persons per square mile.

²⁰ MMC used the MapInfo Exchange Plus software and Missouri population and wire center datasets to perform this analysis. Appendix D includes the population densities, on a wire center level, for each wire center included in the entire study area of each rural ILEC.

Accordingly, in each and every instance where MMC seeks redefinition of the ILEC service area, the average population densities within the portions of those study areas sought to be included in the MMC ETC service area fall below the overall population densities upon which the level of support has been based.

21. Even if this were not the case, the FCC has considered this issue and formulated a procedure to virtually eliminate this concern even where the population density might not be as set forth herein.

[A]s the Commission concluded in Universal Service Order, the primary objective in retaining the rural telephone company's study area as the designated service area of a competitive ETC is to ensure that competitors will not be able to target only the customers that are the least expensive to serve and thus undercut the incumbent carrier's ability to provide service to the high-cost customers. Rural telephone companies now have the option of disaggregating and targeting high-cost support below the study area level so that support will be distributed in a manner that ensures that the per-line level of support is more closely associated with the cost of providing service. *Therefore, any concern regarding "cream-skimming" of customers that may arise in designating a service area that does not encompass the entire study area of the rural telephone company has been substantially eliminated.*²¹

22. Finally, while there is clearly no cream skimming issues involved in the proposed redefinition, we note that the FCC has also recognized the principle of competitive neutrality controls in the designation of CETCs, holding that

Universal service support mechanisms and rules should be competitively neutral. In this context, competitive neutrality means that universal service support mechanism rules neither unfairly advantage nor disadvantage one provider over another and neither unfairly favor nor disfavor one technology over another.²²

²¹ *Petitions for Reconsideration of Western Wireless Corporation's Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, 16 FCC Rcd 19144, 19149 (2001) (emphasis added, footnotes omitted). See also *Pine Ridge*, *supra*, 16 FCC Rcd at 18141, where the FCC used identical language in designating Western Wireless as an ETC for an area that is less than the ILEC's entire study area.

²² Report and Order, CC Docket No. 96-45, FCC 97-157 (May 8, 1997) (§ 47).

23. In the case of Sprint and Spectra, the various wire centers comprising their study areas are scattered in non-contiguous geographic clusters throughout the state. In cases such as MMC's, which is an Missouri-only regional CMRS carrier, the situation where the ILEC study area is scattered statewide warrants additional consideration. A CMRS ETC cannot effectively provide service to geographic areas far removed from its FCC-licensed service area. Accordingly, where, as here, the study area is comprised of numerous non-contiguous regions scattered throughout an expansive geographic area, the Commission should not apply a standard that would allow only one class of CMRS licensee (large nationwide licensees) to qualify for ETC status by being the only carriers that can cover an entire LEC study area.

24. As shown herein, the proposed MMC ETC service area does not result in any possible cream skimming and would not impose any increased reporting obligation on any ILEC. Moreover, even looking beyond the FCC's population density standard, a denial of the proposed redefinition would be contrary to established FCC principals of competitive neutrality and ensuring that regulations are not applied in a manner that can act as a barrier to market entry.

IV. ETC DESIGNATION FOR MMC WOULD BE IN THE PUBLIC INTEREST

25. Because MMC is seeking ETC designation in areas served by rural telephone companies, the Commission is obligated under § 214(e)(6) of the Act to consider whether granting MMC's request will serve the public interest. The FCC has long-recognized that promoting competition in specific telecommunications service markets has multiple public interest benefits (*e.g.*, cost-based pricing, higher quality and more innovative services, increased consumer choice and a decreased need for regulatory oversight). As a result, stimulating competition, whenever possible, is a paramount FCC policy objective.²³

²³ See *e.g.*, Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band (First Report And Order, Eighth Report

26. The FCC has ruled that designating competitive ETCs in areas served by rural telephone companies is consistent with its pro-competitive policies and has numerous public interest benefits.²⁴ The marketplace rivalry that follows designation of a competitive ETC “will result not only in the deployment of new facilities and technologies, but will also provide an incentive to the incumbent rural telephone companies to improve their existing network[s] to remain competitive”²⁵ Those opposing designation of CETCs claim that rural telephone companies are incapable of competing with CMRS providers in the universal service market, and that the advent of additional ETCs in rural LEC areas will induce the incumbent to reduce investment, raise service rates or reduce service quality. The FCC, however, flatly rejected these assertions holding that, to the contrary, competition may prod existing carriers to increase operating efficiency, lower prices and offer better service.²⁶

27. Based on the foregoing considerations, the FCC designated Western Wireless Corporation an ETC in the State of Wyoming. More recently, the FCC designated Guam Cellular and Paging, Inc. (“Guamcell”) as an ETC in a service area also served by the Guam Telephone Authority (“GTA”), the rural telephone company in Guam.²⁷ According to the FCC, Guamcell’s ETC operations in GTA’s service area will promote “competition and the provision of new technologies to consumers in high-cost and rural areas of Guam.”²⁸

28. Granting MMC ETC status in the service area depicted in Appendix C is fully consistent with FCC decisional precedent that holds that such designation meets the public

And Order, and Second Further Notice Of Proposed Rule Making) 1 CR 1017, 11 FCC Rcd 1463 (1995).

²⁴ Western Wireless Corporation, 16 FCC Rcd 48, 55 (2000).

²⁵ *Id.*

²⁶ *Id.*, 16 FCC Rcd at 57.

²⁷ Guam Cellular and Paging, Inc., 17 FCC Rcd at 1502-03.

²⁸ *Id.*

interest criterion set forth in § 214(e)(2) of the Act. That statutory provision is concerned with maximizing consumer welfare, rather than protecting incumbent rural LECs from the rigors attending a competitive market. Designating MMC as an ETC will enhance consumer welfare by bringing service choices, innovation, quality differentiation and rate competition to the local market. In a competitive market, rural consumers will be able to select the carrier that provides the optimal service package based on cost, quality, customer service, etc. Without competition, by contrast, the consumer has no alternative from which to select, and the incumbent monopoly provider has little or no incentive to innovate with respect to any component of its service offering.

29. As required by the Act,²⁹ MMC will use its Federal universal service support for construction, maintenance and upgrading of facilities serving rural areas for which such support is intended. While MMC has been at the forefront of providing the greatest level of service throughout its FCC-licensed service area out of any FCC-licensees, there are areas which MMC cannot afford to serve absent USF support.

30. When originally deployed, the MMC network provided analog wireless service to 3 watt subscriber mobile units typically installed in vehicles with external, high gain antennas. Since that time, CMRS has migrated to digital services and subscriber equipment has evolved from installed high-powered mobile units to hand-held portable units providing personal communications services, operating at a fraction of a watt, from inside cars and buildings. MMC previously overbuilt its entire network with time division multiple access (“TDMA”) technology. However, that technology has been largely abandoned by the industry and MMC has since taken steps to overbuild its network with a digital network operating with the code division multiple

²⁹ 47 U.S.C. § 254.

access (“CDMA”) technology. However, because MMC has extended its analog and TDMA networks to include significant portions of the more-rural parts of its market, because of the costs associated with overbuilding the network with CDMA, MMC has been unable to extend its CDMA overbuild to the much of the rural-most portions of its market. In addition, limitations in propagation characteristics of the CDMA protocol, coupled with the migration to low-powered portable subscriber equipment, has resulted in the need for MMC to look to further enhance its network with additional digital facilities in some of the rural-most portions of its FCC-licensed service area. Attached hereto as Appendix E, is a map which shows areas where MMC would look to enhance its CDMA digital service³⁰ to provide additional coverage to an increasing portion of the population in MMC’s service area, if ETC designation is granted. Upon grant of ETC designation to MMC, MMC’s expanded build-out plans will evolve in these areas in order to meet specific customer needs.

31. Of the areas depicted in Appendix E, a portion of that coverage could be supplied by MMC completing its CDMA overbuild at its existing cell sites. Appended hereto as Appendix F is a map which depicts the areas where CDMA coverage would be enhanced by completion of the CDMA overbuild.³¹ MMC would proceed to order the equipment needed to complete the CDMA overbuild promptly upon designation as an ETC and the commencement of USF funding of its USF support.

32. Appendix G hereto identifies areas where additional cell sites would be needed in order to enhance the CDMA coverage and locations in the vicinity of which future CDMA cell

³⁰ MMC considers its construction plans to be highly confidential and proprietary information. For that reason, the map has been excluded from Appendix E of the public version of this Application, and a Motion for Protective Order pursuant to 4 CSR 240-2.085 is being filed simultaneously herewith.

³¹ As set forth above, this information is considered highly confidential. Accordingly Appendices F, G and H have also been excluded from the public version of this Application.

sites would be located. The deployment of cell sites to serve these areas would be phased-in over a five (5) year period, with the precise timing based upon customer demand and the level of USF support over the next five years. The map in Appendix H superimposes the area requiring CDMA enhancement over the underlying LEC wire centers. In addition, over that same period, MMC envisions implementing capacity expansions that, in conjunction with the deployment of the additional CDMA cell sites, would result in network enhancements in virtually all of the wire centers located in MMC's FCC-licensed service area, that are included in the proposed MMC ETC service area.

33. The specific steps MMC has committed to undertake above, will assure consumers and the Commission that MMC is committed to providing the supported services to its designated area. Accordingly grant of ETC designation would expand the competitive service offering in the proposed ETC service area.

34. In addition to the core services and coverage enhancements discussed above, designating MMC as an ETC will allow customers in this part of rural Missouri to choose service based on pricing, service quality, customer service, and service availability. MMC offers mobility, access to Phase I and, upon PSAP readiness, Phase II Enhanced 911 ("E911"), local number portability, expanded calling scopes and several calling plans to allow customers to purchase plans that best fit their telecommunications needs. Unlike traditional LEC services, the availability of mobility affords access to emergency calling wherever the customer is in need and not merely at the nearest location where the fixed landline telephone is located.

35. Significantly, the ability to provide E911 services is limited to CDMA handsets. Accordingly, MMC has had to seek a waiver from certain FCC E911 obligations as they relate to the rural areas where MMC is presently unable to deploy CDMA. A copy of that FCC filing has

previously been provided to the Commission Staff. Appended hereto as Appendix I are representative testimonials from community leaders in parts of the MMC service area where coverage enhancements would result from the grant of ETC designation, attesting to the need of these enhanced services in those areas.

A. MMC is Committed to Providing Quality Service to Requesting Customers Throughout Its Designated Service Area

36. MMC will provide service to any requesting customer in the service area where it is designated as an ETC. When a potential customer requests service within an area presently served by MMC's existing network, MMC will immediately provide service using its existing network. If a potential customer requests service within the area in which MMC is designated as an ETC, but where the existing service area does not immediately allow MMC to provide service, MMC will take the following steps to provide service: (1) modify or replace the requesting customer's equipment to provide service; (2) install a roof-mounted antenna or other equipment to provide service; (3) adjust the nearest cell site to provide service; (4) identify and make any other adjustments that can reasonably be made to the network or customer facilities to provide service; and (5) determine the feasibility of installing an additional cell site, cell extender, or repeater to provide service where all other options fail.³² If, after following these steps, MMC still cannot provide the requested service, it will notify the requesting party and include that information in an annual report filed with the Commission detailing how many requests for service were unfulfilled for the past year. Finally, in the event that an existing LEC were to seek to drop its designation upon grant of the designation to MMC, MMC stands ready to undertake carrier of last resort obligations in such areas, using the processes set forth above

³² MMC has made these additional commitments consistent with the holding in the *Virginia Cellular Order* at ¶ 15.

and, in conjunction therewith, offer any customer the option to pre-select and pay its toll carrier of choice for any and all toll calls placed by the customer on the MMC network on an equal access basis.

37. In addition to the foregoing, MMC has adopted the Cellular Telecommunications and Internet Association (“CTIA”) Consumer Code for Wireless Service.³³ Adoption of this code should alleviate any concerns that might otherwise arise with respect to its commitment to meet quality of service standards.³⁴

B. MMC Will Advertise Supported Services Throughout Its Designated Service Area

38. MMC will advertise the availability of the supported services and the availability of Lifeline and Linkup services to qualifying customers. Consistent with the additional commitments made by Virginia Cellular,³⁵ MMC will also make available additional consumer information regarding Lifeline and Linkup service in locations where qualified, unserved consumers are likely to find such information useful, including unemployment and welfare offices within its service area.

³³ Under the CTIA Consumer Code, wireless carriers agree to: (1) disclose rates and terms of service to customers; (2) make available maps showing where service is generally available; (3) provide contract terms to customers and confirm changes in service; (4) allow a trial period for new service; (5) provide specific disclosures in advertising; (6) separately identify carrier charges from taxes on billing statements; (7) provide customers the right to terminate service for changes to contract terms; (8) provide ready access to customer service; (9) promptly respond to consumer inquiries and complaints received from government agencies; and (10) abide by policies for protection of consumer privacy. *See CTIA Consumer Code for Wireless Service*, available at http://www.wow-com.com/pdf/The_Code.pdf.

³⁴ The FCC has found that compliance with the CTIA code is sufficient to meet quality of service obligations. *Virginia Cellular* at ¶ 30.

³⁵ *Virginia Cellular* at ¶ 22.

C. MMC Will Comply with the Ongoing Reporting Conditions Recently Imposed on Virginia Cellular

39. Significantly, MMC is a regional CMRS carrier with licensed service areas limited to predominantly rural portions of Missouri. Accordingly, USF made available to MMC can only be used in these areas and there is no concern that MMC could use these funds for any purpose other than those expressly allowed under the FCC's rules and within the area within the state of Missouri in which it is designated as an ETC. Nevertheless, MMC hereby commits to follow the annual reporting obligations specified in the *Virginia Cellular* Order to ensure that MMC satisfies its obligations under Section 214 of the Act.³⁶ Specifically, MMC hereby commits that upon grant of ETC status, it will: (1) annually submit information to the Commission regarding its progress toward meeting its build-out plans in areas where it is designated as an ETC; (2) annually provide information to the Commission with respect to the number of consumer complaints it receives per 1,000 mobile handsets; and (3) annually submit information regarding how many requests for service from potential customers in its designated area were unfulfilled for the past year. MMC would provide this information in a separate schedule as part of the annual report it submits as a certificated carrier.

40. Upon designation, MMC will make available several service offerings and rate plans that will compete with those of the incumbent rural telephone company. Moreover, MMC's designated local calling area will equal or exceed in size the calling areas of the incumbent rural telephone companies whose telephone exchanges are within the area for which MMC is seeking ETC designation. As a result, MMC subscribers should be able to avoid certain intra-LATA toll charges typically associated with wireline service. Additionally, MMC has

³⁶ *Id.* at ¶ 46.

implemented local number portability and E-911 services in compliance with state and federal requirements, which will improve service to Missouri citizens.

41. MMC will use available federal high-cost support to finance construction, maintenance and upgrading of facilities serving rural areas for which that support is intended. High cost support is necessary if MMC is to establish the infrastructure required to bring its wireless service to many remote and difficult-to-reach locales within its FCC-licensed service area. MMC anticipates that infrastructure investment will be required if MMC is to compete with the incumbent LECs throughout its proposed ETC area. Provision of high-cost support to MMC will allow it to compete in providing primary telephone service in remote areas of Missouri.

V. ETC DESIGNATION FOR MMC WILL GREATLY ENHANCE LIFELINE AND LINK-UP SERVICE AVAILABLE IN RURAL MISSOURI

42. MMC acknowledges that Section 54.405 of the FCC's Rules requires all ETCs to make Lifeline services (as defined in Section 54.401 of the FCC's Rules) available to qualifying low-income consumers.

43. MMC will offer discounts of 50% off of the \$30 activation fee to Linkup eligible subscribers. With respect to Lifeline-eligible subscribers, in addition to allowing the Lifeline customer to apply the Lifeline discount to any MMC service plan, MMC intends to offer two distinct service plans to lifeline-eligible subscribers only. The first plan is intended to provide a low-cost service option comparable in price to that offered by the ILEC but with the added advantage of limited mobility. This Plan offers unlimited local calling and mobility in the area served by the subscriber's home cell site at a fixed price of \$6.25 per month.³⁷ The subscriber's

³⁷ The \$6.25 rate reflects the net monthly rate to a Lifeline customer after applying the local exchange service discount of \$1.75 and the federal line charge discount of \$6.50.

outbound local calling area would correspond to its traditional LEC calling area for that subscriber's address. With the advantage of limited mobility, calls could be originated by the MMC Lifeline subscriber to any numbers within that ILEC exchange from any location within the subscriber's home cell site serving area, not just the subscriber's home. Similarly, the Lifeline customer would receive inbound calls, wherever they originate from, throughout the geographic area served by its home cell site. The area served by a home cell site or cells would be defined to include coverage from all MMC cell sites necessary to encompass the callers entire corresponding LEC exchange area. This plan would also include call waiting, call forwarding (limited to a number that is local to the calling plan for subscribers utilizing toll blocking), 3-way conferencing, caller ID and voicemail.³⁸

44. The second MMC Lifeline Plan would allow for local calling and mobility throughout the entire service area for which MMC is designated as an ETC, for a flat \$10.00 per month charge.³⁹ Since the MMC ETC designated service area would be the MMC subscriber's local calling area, even toll restricted Lifeline subscribers would enjoy service area wide mobility and local calling, assuming grant of the MMC ETC Application as filed. This would afford Lifeline customers a local calling scope extending to a geographic area encompassing multiple telephone exchanges served by all of the LEC wire centers for which ETC designation is being sought. The same vertical features described above would also be available under this plan. While these Lifeline plans would not allow roaming into other cellular networks to place and receive routine calls, both plans would allow ubiquitous access to 911 for the MMC Lifeline

³⁸ A comparable non-lifeline plan will be offered for a monthly rate comparable to the rate charged by the LEC for local service in the subscriber's LEC local calling area.

³⁹ The \$10.00 rate reflects the net monthly rate to a Lifeline customer after applying the local exchange service discount of \$1.75 and the federal line charge discount of \$6.50.

subscriber even in a roaming situation. MMC is unable to provide either of these Lifeline plans without ETC support.

45. In addition, once the Commission allows inter-modal porting to proceed, the designation of ETC status to MMC will enable Lifeline and Link-up eligible members of the community to port their existing wireline telephone numbers to a wireless service provider. Denial of ETC designation to MMC will essentially place these lower income members of the community in a separate class that would be effectively barred from porting their numbers to wireless service providers because they would be required to give up their Lifeline support to do so, since Lifeline is only available from an ETC.

VI. USE POLICY ARGUMENTS RELATING TO ETC DESIGNATION FOR WIRELESS CARRIERS ARE NOT AT ISSUE IN THIS APPLICATION

46. MMC is aware that the telecommunication industry has been involved in an ongoing policy argument underlying whether universal service support should be extended to wireless carriers in general. There has been ongoing speculation and argument that grants of ETC status to wireless carriers in general will jeopardize the stability of the universal service fund (“USF”). This speculation centers around the current practice that does not reduce the level or amount of ILEC USF support in connection with the addition of a CETC in the carrier’s service area unless a LEC subscriber actually disconnects its landline phone when subscribing to the wireless service provider. Instead, the wireless CETC subscriber is viewed the same as an additional line is viewed in the context of USF with additional USF support being available for that additional line.

47. These policy arguments have little to do with the MMC Application. The current federal statutory requirements and regulatory processes allow CMRS carriers to obtain Universal Service Support. Without taking any position as to merits of the arguments advanced in the

ongoing policy debate, MMC respectfully submits that it is not relevant to the consideration of MMC's Application and that grant of the MMC Application will neither prejudice those arguments when they are considered in the proper forum nor insulate MMC from any subsequent changes in the rules regarding access to USF.

48. Without prejudice to the foregoing, there is ample evidence to suggest that wireless ETC designations have not had an adverse impact on the USF fund. While wireless ETC designations have been increasing, over the last two years, the level of carrier contribution to the USF (calculated as the percent of revenues needed to support the fund) has actually been decreasing.⁴⁰ Indeed, there is no reasonable basis upon which to conclude that designation of MMC as an ETC will have any adverse impact on the USF fund. The FCC recently dealt with these general policy arguments in its *Virginia Cellular Order*. While acknowledging that these issues are significant to the underlying USF policy, the Commission made it abundantly clear that any changes resulting from the current Federal-State Joint Board on Universal Service ("Joint Board") review would apply to all ETCs, even those granted ETC status before that review is complete.⁴¹ Indeed, the FCC has recently considered recommendations by the Joint

⁴⁰ Wireless carriers contribute to the USF and the FCC has modified its "safe harbor" rules to increase the percentage of wireless calls that are subject to USF. As a result, the actual level of carrier contribution to the USF actually declined during 2003. Specifically, the contribution factor has declined from 9.5% (third quarter 2003), to 9.2% (fourth quarter 2003) to 8.7% (first quarter 2004). On March 5, 2004, the FCC issued a Public Notice proposing a Second Quarter 2004 Universal Service Contribution Factor of 8.7 percent, the same factor as for the first quarter of 2004, indicative of current fund stability. *Proposed Second Quarter 2004 Universal Service Contribution Factor*, DA 04-621 (CC Docket No. 96-45)(Rel. March 5, 2004). On June 7, 2004, the FCC issued a Public Notice proposing a Third Quarter 2004 Universal Service Contribution Factor of 8.9 percent, still well below the contribution factor of a year ago and further indication of the current fund stability. *Proposed Third Quarter 2004 Universal Service Contribution Factor*, DA 04-1613 (CC Docket No. 96-45)(Rel. June 7, 2004). While the contribution factors have increased for 2005, the majority of those increase relate to increased projected support for the Schools and Library Program and the Rural Health Care Program which portions of the fund are not at issue here.

⁴¹ *Id.* at ¶ 3 "The outcome of that proceeding could potentially impact, among other things, the support which Virginia Cellular and other competitive ETCs *may receive in the future* and the criteria

Board which, as adopted, will apply on an ongoing basis to any and all previously designated ETCs.⁴²

49. The FCC has long followed the holding in *Puerto Rico Sun Oil Co.*, which dictates that applications for ETC status must be evaluated based on the rules as they currently exist.⁴³ This Commission cannot base its ETC designation decisions on uncertainty with respect to possible future universal service harm based on possible rule changes. Instead, MMC's ETC application must be evaluated based on the rules as they exist today.⁴⁴

50. The MMC Application is before this Commission under an established set of rules and statutory requirements. Denial of MMC's Application will not affect the ability of wireless carriers in other states to draw upon the USF; it will only affect the ability of the citizens of rural Missouri to benefit from those federal funds. As demonstrated above, the grant of the MMC Application will, in and of itself, place an insignificant burden on the USF. Accordingly, the Commission should avoid consideration of generalized policy which are presently being fully considered by the Joint Board, Congress and the FCC. Those ongoing deliberations have no bearing on the designation of MMC as an ETC nor should this Commission weigh those

used *for continued eligibility* to receive universal support.” (emphasis added).

⁴² The FCC has recently issued a Report and Order to consider recommendations advanced by the Federal-State Joint Board on Universal Service last February. *In the Matter of Federal-State Joint Board on Universal Service*, FCC 05-46 (CC Docket No. 96-45) (Rel. March 17, 2005) (“*FCC Guidelines Order*”). To the extent that rules changes have been adopted as a result of that or any future proceeding, the FCC has made it abundantly clear that those changes apply to all FCC-designated ETCs, including those that had been previously designated. would affect the methodology for calculating USF support for all ETCs.

⁴³ *Puerto Rico Sun Oil Co. v. EPA*, 8 F.3d 73, 79 (1st Cir. 1993) (citing *SEC v. Cheery Corp.*, 332 U.S. 194, 196 (1947)) (An agency's decision cannot be supported based upon rules that the agency has not yet adopted.)

⁴⁴ *Id.*

arguments at all in ruling on the MMC Application; knowing full well that any ETC designation will be subject to any changes ultimately adopted in those proceedings.

51. The Commission may choose to evaluate the MMC application using the guidance recently announced in the *FCC Guidelines Order*. Those guidelines are wholly consistent with the precedent cited by MMC and evaluation of the MMC Application would result in a favorable action under those guidelines.

52. MMC does not have any pending action, or final unsatisfied judgment or decisions against it from any state or federal agency or court which involves customer service or rates, which action, judgment or decision has occurred within three (3) years of the date of the Application.

53. MMC does not have any annual reports or assessment fees that are overdue.

54. As a final matter, MMC respectfully requests that upon designation of MMC as an ETC, the Commission file the requisite certification with the FCC. Since the requisite certification will not be made by October 1, 2004, MMC respectfully requests that the Commission indicate that it would support a waiver of the certification filing deadline to enable MMC to begin receiving USF support as expeditiously as possible. MMC has been making timely line count filings with Universal Service Administrative Company (“USAC”) and will therefore be in position to begin receiving support upon proper certification by this Commission.

VII. CONCLUSION

WHEREFORE, on the basis of the foregoing, MMC respectfully requests that the Commission: (1) designate MMC as a telecommunications carrier eligible under the provisions of Section 54.201(d) of the FCC’s Rules to receive federal universal service support; and

(2) issue such other orders and certifications as are deemed necessary or convenient in this matter.

Respectfully submitted,

**MISSOURI RSA No. 7 LIMITED PARTNERSHIP
d/b/a MID-MISSOURI CELLULAR**

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March 25, 2005

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing Application for Designation as an Eligible Telecommunications Carrier Pursuant to § 254 of the Telecommunications Act of 1996 has been hand-delivered, transmitted by e-mail or mailed, First Class, postage prepaid, this 25th day of March, 2005, to:

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/s/ Paul S. DeFord
Paul S. DeFord

VERIFICATION

STATE OF MISSOURI)
)
) SS.
)
COUNTY OF Pettis)

Kevin Dawson, having been duly sworn upon his oath, states that he is the General Manager of Missouri RSA No. 7 Limited Partnership dba Mid-Missouri Cellular, the Applicant herein, and as such, is duly authorized by the Applicant to execute the foregoing Application and to make this Affidavit on its behalf, and that the matters and things stated in the foregoing Application and Appendices thereto are true, complete and correct to the best of his knowledge, information and belief.



Kevin Dawson
General Manager
Missouri RSA No. 7 Limited Partnership
dba
Mid-Missouri Cellular

Subscribed and sworn to before me, a Notary Public, on this 22nd day of March, 2005.



Notary Public

My Commission Expires: Dec 15, 2006

LINDA K. BROADDUS
NOTARY PUBLIC - NOTARY SEAL
STATE OF MISSOURI
PETTIS COUNTY
MY COMMISSION EXPIRES:
DECEMBER 15, 2006