

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

In the Matter of the Revisions       )  
of the Commission's Rules       )  
Regarding Telecommunications       )

Case No. TX-2018-0120

**COMMENTS OF THE MISSOURI SMALL TELEPHONE COMPANY GROUP**

In response to the Missouri Public Service Commission's ("Commission") *Notice of Proposed Rulemaking*,<sup>1</sup> the Missouri Small Telephone Company Group (STCG) and Missouri Independent Telephone Company Group (MITG),<sup>2</sup> hereinafter collectively "the STCG", offer the following comments.

**INTRODUCTION**

The STCG is made up of thirty-five (35) small telephone companies, each serving between approximately 200 and 15,000 access lines in predominantly rural, high-cost areas within the state of Missouri. The STCG companies have a long history of providing high quality telecommunications service in rural Missouri. Many STCG members have been providing service for over 100 years, and the STCG companies continue to pioneer the build-out of broadband service in rural Missouri. All of the STCG companies are Eligible Telecommunications Carriers (ETCs) and participate in the Missouri Universal Service Fund (MoUSF) Disabled program and the federal Universal Service Fund (USF) Lifeline program. The STCG companies also participate in the federal USF's High-Cost Support program.

The STCG generally concurs with the comments of the Missouri Telecommunications Industry Association (MTIA) filed on July 2, 2018.

**A. CHAPTER 31 – UNIVERSAL SERVICE**

**31.010 – Definitions**

The STCG recommends that proposed new rule 31.010(4) be revised to clarify that ETC Status is also necessary to participate in the Missouri MoUSF Lifeline program. This would be consistent with new rules 31.014(1) and 31.016(1).

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<sup>1</sup> MISSOURI REGISTER, Vol. 43, No. 10, May 15, 2018.

<sup>2</sup> See Attachment A.

Proposed new rule 31.010(5) now defines Essential Local Telecommunications Service as including “retail broadband service”. The STCG fully supports the proposal to expand the definition of “Essential Local Telecommunications Service” to include Broadband Internet Access Service. This would be consistent with action taken by the Federal Communications Commission (FCC) in expanding the federal Lifeline program<sup>3</sup> and recognize that essential telecommunications services no longer are limited to voice service but should also include access to Broadband services. The STCG, however, is concerned with the proposed term “Retail Broadband Service” as this may imply that the Commission has jurisdiction over the retail offering of this service to end user customers. This would be inconsistent with, and contrary to, Section 392.611, RSMo., which clearly provides that:

Broadband and other Internet protocol – enabled services shall not be subject to regulation under Chapter 386 or this Chapter, except that Interconnected Voice Over Internet protocol service shall continue to be subject to Section 392.550.

Therefore, in order to avoid any confusion, the STCG recommends that the proposed rule defining “Essential Local Telecommunications Service” should use the term “Broadband Internet Access Service” which is a term consistent with the FCC’s rules.

The STCG also recommends that the defined term “Retail Broadband Service” in Rule 3.010(11) be replaced with the term “Broadband Internet Access Service.”

### **31.011 – MoUSF Administration**

Proposed new rule 31.011 would eliminate the Commission’s rules regarding the organization, powers, and meetings of the MoUSF Board. This seems contrary to §392.248.1 which requires the PSC to adopt rules “governing operations”. While the STCG understands that some of the provisions in existing Rule 31.040 may be contained in the Board’s bylaws, the statute evidences an intent by the Legislature to have these provisions in a rule so that changes to these rules would be subject to public notice and comment, whereas bylaw changes would simply require Board approval.

### **31.012 – MoUSF Assessment**

Consistent with the MTIA comments, the STCG believes that the Chapter 31 Rules should retain the existing rule language further defining and describing Net Jurisdictional Revenue. See existing rule 28.040(4).

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<sup>3</sup> See *In the Matter of Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, *Third Report and Order*, *Further Report and Order*, and *Order on Reconsideration*, rel. April 27, 2016.

### **31.013 – MoUSF High Cost Support**

The STCG agrees that the current High Cost Support rules should be rescinded because they were unworkable and produced “counterintuitive” results.<sup>4</sup>

However, the new proposed high cost rules, while well-intended, are inconsistent with §392.248 RSMo. For example, the proposed rule would allow any certificated telecommunications company or registered IVoIP provider to receive high cost funding from the Missouri USF. But the statute requires that a recipient of high cost funding must also offer Essential Local Telecommunications Service throughout an entire high cost area and have carrier of last resort obligations (§392.248.4(1)(a)). In addition, the statute directs the Commission to determine the cost of providing Essential Local Telecommunications Service and designate high-cost areas within the state that are eligible for funding (§392.248.6(2) and(3)). The statute also requires that the Commission determine a just, reasonable, and affordable rate for Essential Local Telecommunications Service, and a telecommunications carrier receiving high cost support may not charge a rate in excess of that set by the Commission for essential services in a particular geographic area (§392.248.4(1)(b)). Only in the case where the cost of providing Essential Local Telecommunications Service exceeds the just, reasonable, and affordable rate for such service will the Missouri USF High Cost Fund provide support to cover the costs that exceed the rate.

The STCG understands that the proposed rule is attempting to address a very real problem that exists in Missouri, i.e., where the cost of extending facilities to new customers exceeds the revenue to be received from those customers. Unfortunately, the current statutory language does not, in the STCG’s opinion, allow for the Commission to implement a high cost support mechanism as proposed in its new rule 31.013. The STCG believes further industry discussion would be appropriate to determine how to craft rules for a high cost fund that would be consistent with existing statutory language or, in the alternative, determine what changes will need to be made in the statute to permit a high cost fund envisioned by the proposed rule.

### **31.014 – Lifeline and Disabled Programs**

Proposed new rule 31.014(1) provides that a company participating in the Missouri Disabled Program does not need to be designated an Eligible Telecommunications Carrier, but it must have a certificate of service authority to provide basic local telecommunications service or a registration to provide IVoIP service.

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<sup>4</sup> *In the Matter of an Investigation into Various Issues Related to the Missouri Universal Service Fund*, Case No. TO-98-329, *Order Establishing Technical Meetings*, June 27, 2000, p. 1.

Missouri statutes also require that a telecommunications company's eligibility to receive support to assist Disabled customers shall be conditioned on the company's "providing essential local telecommunications services to such customers pursuant to the discounted rate established by the commission for such customers." §392.248.4(2), RSMo. Accordingly, new rule 31.014(1) should be modified to include this additional condition of eligibility. In addition, it is the STCG's understanding that the Missouri Disabled Program would now be optional. In other words, telecommunications companies that have been designated Essential Telecommunications Carriers could choose to provide Disabled Service, but they are not required to do so. If the STCG's understanding is correct, the STCG suggests that new rule 31.014(1) be further modified to make it clear that the Missouri Disabled Program is optional for Eligible Telecommunications Carriers.

Proposed new rule 31.014(5) should be revised to reference the new Missouri-specific Disabled program form.

### **31.015 – ETC Requirements**

Proposed new rule 31.015(3)(A) would require ETCs to annually submit a copy of its Form 481 Report into EFIS. However, on June 27, 2018, the Missouri Commission issued an *Order Granting Variance to Relieve ETCs of the Obligation to File a Copy of Their Federal Annual Report with the Commission* waiving the existing requirement and indicating its intent to no longer require ETCs to file duplicate copies of Form 481 with the Missouri Commission. In light of the Commission's *Order*, the STCG recommends that this requirement be removed.

Existing Rule 31.130(4)(D) permits the Commission to grant a waiver or variance from any portion of its existing ETC requirements for good cause, upon request or on its own motion. As noted above, the Commission's Staff filed such a motion on June 19, 2018. The Commission's Staff also filed an earlier motion on June 12, 2018. The STCG believes that the waiver and variance language in existing Rule 31.130(4)(D) should be retained and included in the new ETC Requirements Rule.

## **CONCLUSION**

The STCG requests that the Commission adopt the STCG's proposed changes, clarifications, and edits to the proposed Rule.

Respectfully submitted,

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### **Certificate of Service**

I hereby certify that a true and correct copy of the above and foregoing document was served electronically on this 2<sup>nd</sup> day of July 2018, to:

Office of Public Counsel  
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General Counsel Office  
[staffcounsel@psc.mo.gov](mailto:staffcounsel@psc.mo.gov)

/s/ Brian T. McCartney

## **ATTACHMENT A**

### **STCG**

BPS Telephone Company  
Citizens Telephone Company of Higginsville, Mo.  
Craw-Kan Telephone Cooperative, Inc.  
Ellington Telephone Company  
Farber Telephone Company  
Fidelity Telephone Company  
Goodman Telephone Company  
Granby Telephone Company  
Grand River Mutual Telephone Corporation d/b/a GRM Networks  
Green Hills Telephone Corporation  
Holway Telephone Company d/b/a American Broadband  
Iamo Telephone Company  
Kingdom Telephone Company  
K.L.M. Telephone Company d/b/a American Broadband  
Lathrop Telephone Company d/b/a LTC Networks  
Le-Ru Telephone Company  
Mark Twain Rural Telephone Company  
McDonald County Telephone Company  
Miller Telephone Company  
New Florence Telephone Company  
New London Telephone Company  
Northeast Missouri Rural Telephone Company  
Orchard Farm Telephone Company  
Ozark Telephone Company  
Peace Valley Telephone Company, Inc.  
Rock Port Telephone Company  
Seneca Telephone Company  
Steelville Telephone Exchange, Inc.  
Stoutland Telephone Company

### **MITG**

Alma Communications Company d/b/a Alma Telephone Company  
Chariton Valley Telephone Corporation  
Choctaw Telephone Company  
MoKAN DIAL Inc.  
Oregon Farmers Mutual Telephone Company  
Otelco Mid-Missouri, LLC