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d/b/a/ AT&T Missouri
Case No.: CO-2006-0464

SOUTHWESTERN BELL TELEPHONE, L.P.,
d/b/a AT&T MISSOURI

CASE NO. CO-2006-0464

REBUTTAL TESTIMONY

OF

JAMES E. STIDHAM, JR.

FILED²

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Missouri Public
Service Commission

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My Commission Expires: 9/10/09.

INTRODUCTION

1 **Q. WHAT IS YOUR NAME, TITLE AND BUSINESS ADDRESS?**

2 A. My name is James E. Stidham, Jr. My title is Associate Director-Corporate Regulatory
3 Planning and Policy. My business address is 208 S. Akard Street, Room 3041, Dallas,
4 Texas 75202.

5

6 **Q. HAVE YOU PREPARED AN EXHIBIT THAT PROVIDES INFORMATION**
7 **REGARDING YOUR EMPLOYMENT, EDUCATIONAL BACKGROUND AND**
8 **PREVIOUS APPEARANCES BEFORE STATE PUBLIC UTILITY**
9 **COMMISSIONS?**

10

11 A. Yes. That information is included in Schedule JES-1, which is attached to my Rebuttal
12 Testimony.

13

14 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

15 A. The purpose of my Rebuttal Testimony is to respond to the petition of VCI Company
16 ("VCI") for designation as an Eligible Telecommunications Carrier ("ETC") for purposes
17 of receiving federal Universal Service Fund ("FUSF") support (hereinafter, "VCI's
18 Petition") and the Direct Testimony of Mr. Stanley Johnson filed on August 24, 2006 in
19 support of VCI's Petition. I recommend that the Commission consider the information
20 and analysis I provide in this Rebuttal Testimony in assessing whether to grant VCI's
21 Petition.

22

23 **SUMMARY**

24 **Q. PLEASE IDENTIFY THE MAIN POINTS CONVEYED BY YOUR REBUTTAL**
25 **TESTIMONY.**

26

1 A. The main points conveyed in my Rebuttal Testimony are:

- 2 • VCI's Petition and Direct Testimony show that VCI does not comply with several
3 of the requirements of Commission Rule 3.570 (4 CSR 240 3.570) or with Section
4 214 of the federal Communications Act, as amended by the Telecommunications
5 Act of 1996 ("the Act");
6
- 7 • VCI has not met its burden of proof to show that granting its Petition "would be
8 consistent with the public interest, convenience and necessity," as required by
9 Commission Rule 3.570(2)(A)(5) (4 CSR 240-3.570(2)(A)(5)) and Section
10 214(e)(2) of the Act; and
11
- 12 • VCI's proposed Lifeline rate does not comply with FCC Rule 54.403(a) as VCI's
13 Lifeline rate does not pass through the total available Lifeline discount.
14
15

16 **MISSOURI ETC RULE 4 CSR 240 3.570**

17 **Q. HAS THE MISSOURI COMMISSION ADOPTED RULES GOVERNING THE**
18 **REVIEW OF A CARRIER'S APPLICATION FOR ETC STATUS?**
19

20 A. Yes. After completion of an extensive rulemaking process, the Commission published
21 rules on May 15, 2006 (31 Mo. Reg. 790-796) which, among other things, established the
22 requirements that a carrier must meet to be designated an ETC in Missouri. These rules
23 are found at 4 CSR 240-3.570.
24

25 **Q. BASED UPON YOUR ANALYSIS, PLEASE IDENTIFY THE PARTICULAR**
26 **RULES FOR WHICH VCI FAILS TO MEET THE SHOWING REQUIRED TO**
27 **BE MADE BY IT IN ORDER TO BE DESIGNATED AS AN ETC.**
28

29 A. There are four such rules for which VCI's showing falls short:

- 30 • Rule 3.570(3)(C)(3), which requires that "ETCs shall extend their networks to serve
31 new customers upon a reasonable request."
32
- 33 • Rule 3.570(2)(C), which states: "Each request for ETC designation shall include a
34 plan outlining the method for handling unusual construction or installation charges."
35
- 36 • Rule 3.570(2)(A)(10), which requires that the ETC applicant provide a "commitment
37 to offer a local usage plan comparable to those offered by the incumbent local
38 exchange carrier in the areas for which the carrier seeks designation. Such
39

1 commitment shall include a commitment to provide Lifeline and Link Up discounts
2 and Missouri Universal Service Fund (MoUSF) discounts pursuant to 4 CSR 240-31,
3 if applicable, at rates, terms and conditions comparable to the Lifeline and Link Up
4 offerings and MoUSF offerings of the incumbent local exchange carrier providing
5 service in the ETC service area.”

- 6
- 7 • Rule 3.570(2)(A)(5), which requires that the ETC applicant provide a “demonstration
8 that the commission’s grant of the applicant’s request for ETC designation would be
9 consistent with the public interest, convenience and necessity.”

10

11 To assist the Commission, I discuss the first, second and third points identified above in
12 this particular section of my Rebuttal Testimony. I discuss the fourth point in the next
13 portion of my Rebuttal Testimony, where I explain why granting VCI’s Petition would
14 not be consistent with the public interest, convenience and necessity.

15

16 **Q. DO THE COMMISSION’S ETC RULES ADDRESS AN ETC’S OBLIGATION TO**
17 **PROVIDE SERVICE WITHIN THE AREA FOR WHICH IT SEEKS ETC**
18 **DESIGNATION?**

19

20 A. Yes. Subsection (3)(C) of the Commission’s ETC rules state the “service provisioning
21 commitment” that must be met by an ETC. Rule 3.570(3)(C)(3) (4 CSR 240 3.570
22 (3)(C)(3)) states that “ETCs shall extend their networks to serve new customers upon a
23 reasonable request.” (emphasis added). This requirement stems from the federal Act’s
24 requirement that an ETC serve “throughout” the service area for it receives ETC
25 designation.¹

¹ See, 47 U.S.C. Section 214(e)(1) (“A common carrier designated as an eligible telecommunications carrier . . . shall be eligible to receive universal service support in accordance with section 254 of this title and shall, throughout the service area for which the designation is received - (A) offer the services that are supported by Federal universal service support mechanisms under section 254(c) of this title, either using its own facilities or a combination of its own facilities and resale of another carrier’s services (including the services offered by another eligible telecommunications carrier)[.]” (emphasis added)).

1 **Q. WHAT IS A “REASONABLE REQUEST”?**

2 A. Rule 3.570 (1)(E) (4 CSR 240 3.570 (1)(E)) states: “Reasonable request for service
3 refers to a request for service of a type and quantity that is not in excess of service which
4 is normally requested by like customers and is for service at a location within the
5 carrier’s designated service area.”

6

7 **Q. DOES VCI PROVIDE SUFFICIENT ASSURANCES STATING VCI’S**
8 **COMMITMENT TO EXTEND ITS NETWORK UPON REASONABLE**
9 **REQUEST?**

10

11 A. No. To the contrary, its Direct Testimony states instead that VCI will provide service
12 only “where its underlying carrier’s network already passes the potential customer’s
13 premises.” (Johnson Direct, p. 14) (emphasis added). The testimony next states:

14 As the Company does not own, operate or manage a network, whether the
15 Company is able to serve a particular subscriber is dependent on where
16 AT&T Missouri’s network is located or where AT&T builds out its
17 network. Service outside of AT&T Missouri’s existing network coverage,
18 in VCI’s designated service area, cannot be provided at reasonable cost by
19 the company. Id.

20

21 Put simply, this testimony indicates that VCI neither commits nor has the ability to
22 extend service to customers throughout its designated ETC service area upon reasonable
23 request, as required by Commission Rule 3.570(3)(C)(3) and Section 214(e)(1) of the
24 Act.

25

26 **Q. DOES VCI’S PETITION OR TESTIMONY COMPLY WITH RULE 3.570(2)(C)?**

27

28 A. No. Rule 3.570(2)(C) (4 CSR 240 3.570 (2)(C)) requires that a carrier include in its
29 request for ETC designation “a plan outlining the method for handling unusual
30 construction or installation charges.” VCI’s showing here is no better than its deficient

1 showing with regard to the Commission's "reasonable request" rule, discussed above.

2 Instead, VCI seeks to excuse itself from this requirement.

3
4 VCI's Direct Testimony states that providing service outside of AT&T Missouri's
5 existing network coverage, though inside VCI's requested designated service area,
6 "cannot be provided at reasonable cost by the company." (Johnson Direct, p. 14).
7 Therefore, according to VCI, it "should not be required to provide a plan outlining the
8 method for handling unusual construction or installation charges as requested by 4 CSR
9 3-570(2)(c) [sic]." However, the very purpose of subsection (2)(C) is to pin down
10 exactly how an ETC plans to handle any "charges" to customers resulting from extending
11 its network upon reasonable request to provide service throughout the area for which it
12 seeks ETC designation. It does not provide any exception to an ETC's duty to provide
13 such service based on the ETC's "cost recovery" concerns.

14 In any event, VCI's cost recovery concern is sufficiently addressed by Commission Rule
15 3.570(3)(C)(3)(C), which provides:

16 Where special conditions or special requirements of the customer involve
17 unusual construction or installation costs, the customer may be required to
18 pay a reasonable portion of such costs in accordance with the plan
19 outlining the method for handling unusual construction or installation
20 charges approved by the commission at the time of designation as an ETC.

21
22 This rule is intended to allow an ETC a method to recover the expenses of build-out when
23 it would be unreasonable for the carrier to absorb them itself.

24 In sum, VCI does not comply with subsection (2)(C) to identify how it intends to handle
25 any charges made to customers to cover these expenses.

1 **Q. DOES THE RATE INFORMATION PROVIDED BY VCI INDICATE**
2 **COMPLIANCE WITH RULE 3.570 (2)(A)(10)?**

3
4 A. No. Commission Rule 3.570 (2)(a)(10) (4 CSR 240 3.570 (2)(a)(10)) requires a carrier to
5 offer a local usage plan and a Lifeline plan at rates, terms and conditions comparable to
6 the Lifeline and Link Up offerings of the incumbent local exchange carrier ("ILEC") in
7 the areas for which the carrier seeks ETC designation. The rule effectively adopts the
8 FCC's own requirement applicable to ETC applications filed with that agency.² VCI's
9 Lifeline rates are not comparable to those of AT&T Missouri.

10
11 **Q. HAS THE FCC ADOPTED A SPECIFIC METHOD FOR DETERMINING**
12 **WHETHER AN ETC APPLICANT'S AND AN ILEC'S LOCAL USAGE PLANS**
13 **ARE COMPARABLE?**

14
15 A. No. In its ETC Designation Order, the FCC indicated it would review an ETC
16 applicant's local usage plans "on a case-by-case basis."³ However, the FCC did provide
17 an example of how a review could be conducted when it referenced the Federal-State
18 Joint Board's Recommended Decision, regarding the Arizona Commission's analysis of
19 local usage plans. The Joint Board noted in paragraph 36 of its Recommended Decision:
20 "The Arizona Commission compared the ETC applicant's calling plan with that of the
21 landline service offerings and determined that based on the size of the calling area, toll
22 calling on the ETC applicant's network would cost the same, or less, as it would on the
23 incumbent LEC's network." Footnote 92, which is associated with the previous quote,
24 states: "*Id.* at 7 (noting that a local incumbent LEC charged \$15.90 for a single
25 residential access line but that this access provides a local calling area which is a small

² Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order,, 20 FCC Red 6371 (2005) ("ETC Designation Order"), paras. 32-34.

³ ETC Designation Order, para. 33.

1 fraction of that being provided by Smith Bagley (SBI), and with most calls being toll, 30
2 minutes of toll calling will result in an approximate total charge of \$25.40 for the wireline
3 package as opposed to \$24.99 for the equivalent SBI offering)." The rates that customers
4 paid, when calling scope was included, were comparable, even though the basic local rate
5 for the two carriers was very different.

6

7 **Q. WHY IS THE LOCAL USAGE ANALYSIS PROVIDED BY THE FCC IN THE**
8 **PRIOR ANSWER IMPORTANT IN COMPARING THE LOCAL USAGE PLANS**
9 **OF TWO DIFFERENT CARRIERS?**

10 A. A straight comparison of the prices of two items isn't meaningful if the sizes or quantity
11 of the two items is different. The FCC's method adjusts one of the carrier's rates to take
12 into account the differences in the size of the calling scope. This adjustment allows a
13 commission to make an apples to apples comparison of the anticipated costs a consumer
14 incur using each carrier.

15

16 **Q. DO VCI'S RATES NEED TO BE ADJUSTED TO ACCOUNT FOR A**
17 **DIFFERENT SIZE CALLING SCOPE?**

18
19 A. No. VCI provides the same calling scope as AT&T Missouri. A comparison of the rates
20 would require no modification to the tariffed rates of either carrier.

21

22 **Q. IN YOUR OPINION, ARE VCI'S RATES, TERMS AND CONDITIONS**
23 **COMPARABLE TO THOSE OF AT&T MISSOURI?**

24

25 A. No. The basic local service rates of VCI are much higher than those of AT&T Missouri,
26 as shown in the representative rates set forth in the table below.

AT&T Missouri	Group A	Group B	Group C	Group D	Group D 2
Service Rate	\$ 7.15	\$ 10.00	\$ 11.00	\$ 12.00	\$ 13.00
SLC	\$ 5.67	\$ 5.67	\$ 5.67	\$ 5.67	\$ 5.67
End User Cost	\$ 12.82	\$ 15.67	\$ 16.67	\$ 17.67	\$ 18.67
Available	\$ 12.67	\$ 12.67	\$ 12.67	\$ 12.67	\$ 12.67
Lifeline Discount					
AT&T Lifeline	\$ 0.15	\$ 3.00	\$ 4.00	\$ 5.00	\$ 6.00
Rate					
VCI Lifeline	\$ 19.00	\$ 19.00	\$ 19.00	\$ 19.00	\$ 19.00
Rate					
% difference	12667%	633%	475%	380%	317%

1
2 Additionally, VCI charges \$120.00, \$150.00 less a Link-up discount of \$30.00, to install
3 Lifeline service, as compared to AT&T Missouri's \$17.26, which is \$34.53 less a Link-
4 up Discount of \$17.27, to install Lifeline service.⁴

5
6 **Q. DOES IT APPEAR THAT VCI INTENDS TO COMPLY WITH THE FEDERAL**
7 **"PASS-THROUGH" RULES IN PRICING ITS LIFELINE SERVICE?**

8
9 A. No. The FCC's rules clearly intend for an ETC to pass on the full amount of the Lifeline
10 support to the low-income consumer. FCC Rule 54.403(a)(2) states, with regard to the
11 Tier Two support of \$1.75, as follows: "Additional federal Lifeline support in the
12 amount of \$1.75 per month will be made available to the eligible telecommunications
13 carrier providing Lifeline service to the qualifying low-income consumer, if that carrier
14 certifies to the Administrator that it will pass through the full amount of Tier-Two
15 support to its qualifying, low-income consumers and that it has received any non-federal
16 regulatory approvals necessary to implement the required rate reduction."⁵ FCC Rule
17 54.403(a)(3) requires the same certification for Tier Three support, which is an amount

⁴ Johnson Direct, p. 19.

⁵ 47 CFR Section 54.403(a)(2) (emphasis added).

1 equal to one-half of any state-mandated Lifeline support, up to a maximum of \$1.75 per
2 month.⁶

3
4 Based on its Direct Testimony, VCI does not appear to be planning to pass the full
5 amount of the Lifeline support through to the low-income customer. According to its
6 tariff, VCI's non-Lifeline "Basic Monthly Service" Charge is \$29.99 (VCI – Missouri
7 P.S.C. Tariff No. 1, Original Sheet No. 41). VCI's Direct Testimony says that for
8 Lifeline customers, the monthly rate will be \$19.00 "after service discounts, including
9 company provided discounts, are applied." (Johnson Direct, p. 19). VCI itemizes these
10 discounts as follows:

11	Tier I - Subscriber Line Charge	\$6.50
12	Tier II-Federal Discount	\$1.75
13	Tier III-State Low-Income Discount	\$3.50
14	Additional Federal discount	<u>\$1.75</u>
15		
16	Total Federal/State Discount	\$12.67
17	Company Discount	<u>\$ 3.99</u>
18		
19	Total Federal, State and Company Discounts	\$17.49

⁶ 47 CFR Section 54.403(a)(3) ("Tier Three. Additional federal Lifeline support in an amount equal to one-half the amount of any state-mandated Lifeline support or Lifeline support otherwise provided by the carrier, up to a maximum of \$1.75 per month in federal support, will be made available to the carrier providing Lifeline service to a qualifying low-income consumer if the carrier certifies to the Administrator that it will pass through the full amount of Tier-Three support to its qualifying low-income consumers and that it has received any non-federal regulatory approvals necessary to implement the required rate reduction.").

1 Subtracting \$17.49 from \$29.99 (VCI's basic tariffed rate) yields the sum of \$12.50.
2 However, VCI states that the customer will be charged \$19.00 a month. VCI has either
3 made incorrect calculations, or it needs to explain why it will charge the customer \$19.00
4 per month despite discounts which, when applied to its tariffed rate, yield a monthly rate
5 of only \$12.50 (i.e., \$6.50 less than \$19.00). It may be that VCI does not actually intend
6 to provide customers the \$3.99 "Company Discount" in additional lifeline support, and
7 that it might additionally plan to retain \$2.51 of Lifeline support for itself, even though
8 these discounts are intended to lower costs for the low-income customers VCI purports to
9 help.

10

11 **Q. HAS VCI PROPERLY IDENTIFIED THE CORRECT SUBSCRIBER LINE**
12 **CHARGE?**

13

14 **A.** No. The Subscriber Line Charge for AT&T Missouri's service area
15
16 is \$5.67,⁷ not \$6.50. The calculation of the actual discount should
17
18 have looked like this;

19

20	Tier I - Subscriber Line Charge	\$5.67
21	Tier II- Federal Discount	\$1.75
22	Tier III-State low-income discount	\$3.50
23	Additional Federal discount	<u>\$1.75</u>
24		
25	Total Federal/State discount	\$12.67
26	Company Discount	<u>\$ 3.99</u>
27		
28	Total Federal, State and Company Discounts	\$16.66

⁷ SWBT Tariff F.C.C. #73 4.4(a)(3).

1 Even when the correct support amounts are used, VCI's non-Lifeline service is \$29.99
2 (VCI Tariff Sheet 41) and when the \$16.66 is subtracted, the result isn't \$19.00. Rather,
3 VCI's Lifeline rate would be \$13.33, a difference of \$5.67.

4
5 **PUBLIC INTEREST**
6

7 **Q. BOTH SECTION 214(E)(2) OF THE ACT AND COMMISSION RULE 3.570**
8 **(2)(A)(5) REQUIRE THAT AN APPLICATION BE IN THE "PUBLIC**
9 **INTEREST, CONVENIENCE, AND NECESSITY." DOES VCI MEET ITS**
10 **BURDEN OF PROOF TO SHOW THAT GRANTING IT ETC DESIGNATION**
11 **WOULD BE COSISTENT WITH THE PUBLIC INTEREST, CONVENIENCE,**
12 **AND NECESSITY?**
13

14 **A.** No. VCI does not meet the burden of proof required of it under federal law or Missouri
15 rules. VCI's Direct Testimony offers discussion of six factors to support VCI's public
16 interest showing:

- 17 • Choice
18 • Advertising
19 • Removing obstacles
20 • Less toll
21 • Availability of premium services
22 • Practices that aid low-income customers
23

24 However, VCI fail to submit competent and substantial evidence relative to these factors
25 that VCI's Petition is in the public interest.
26

27 **Q. DOES VCI OFFER REAL "CHOICE?"**

28 **A.** No. VCI attempts to differentiate VCI from other CLECs, claiming that VCI will provide
29 an alternative to "high priced pre-paid local exchange carriers." (Johnson Direct, p. 3)
30 However, the addition of VCI would appear to simply add but one more participant to
31 dozens of CLECs already providing local exchange service in Missouri. Moreover, there
32 appear to be 19 prepaid CLECs shown on the Commission's website. VCI does not state

1 precisely how it would provide a customer value that is not already being provided by all
2 of these market participants.

3
4 **Q. VCI CLAIMS THAT IT WILL SERVE AN UNDERSERVED OR SOMETIMES**
5 **UNSERVED MARKET. (JOHNSON DIRECT, P. 3). WHAT IS AN**
6 **“UNDERSERVED” AND “UNSERVED” MARKET?**

7
8 **A.** VCI's Direct Testimony leaves it unclear what VCI is referring to by its use of the two
9 terms. AT&T Missouri offers service to all customers within the area in which it is
10 certificated, including low-income customers. Missouri consumers also have several
11 other service providers available to them, including CLECs and wireless carriers offering
12 both traditional and prepaid services.

13
14 **Q. VCI STATES THAT ACCORDING TO A USAC MAP, LESS THAN 10% OF**
15 **ELIGIBLE CONSUMERS PARTICIPATE IN LIFELINE IN MISSOURI.**
16 **(JOHNSON DIRECT, P. 20). PLEASE COMMENT.**

17
18 **A.** The map of 2005 Lifeline Participation, prepared by the Universal Service Administrative
19 Company, cannot be relied on to accurately capture the total number of Lifeline eligible
20 households. The map overstates this number, and thus it underestimates the “take rate” (a
21 percentage reached by dividing the number of actual participants by the number of all
22 who are eligible).

23
24 USAC's methodology for determining the number of eligible households is flawed.
25 USAC estimated that 58% of households were receiving assistance through more than
26 one program. Stated simply, if a household participated in more than one program, it was
27 counted as an eligible household more than one time, thereby overcalculating the total

1 number of eligible households, and thus causing a much lower take rate than were the
2 household counted only once in the denominator. For example, the USAC map shows
3 Texas as having a Lifeline take rate of only between 20% and 50% even though Texas
4 has a Lifeline auto enrollment process.

5
6 **Q. IS THERE ANOTHER REASON WHY "TAKE RATES" CAN BE MISLEADING**
7 **AND INCOMPLETE?**

8
9 **A.** Yes. The Lifeline program is intended to allow households to obtain telephone service
10 that they couldn't otherwise afford, not to see how many households can be added to the
11 Lifeline program. A Lifeline "take rate" doesn't take into account a state's total
12 penetration rate. I would submit that few state commissions would be comforted were
13 their state's Lifeline take rate at 98% while the state's overall telephone penetration rate
14 stood at but 72%. However, they would be quite comforted if telephone penetration rate
15 stood at 99%, even though the Lifeline take rate might be only 5%. Moreover, a "take
16 rate" does not account for households who qualify for Lifeline but for reasons of their
17 own do not choose to participate in the program.

18
19 **Q. HOW DOES MISSOURI'S TELEPHONE PENETRATION RATE COMPARE TO**
20 **THE NATIONAL AVERAGE?**

21
22 **A.** Quite well, according to the most recent data from the FCC, Missouri has a telephone
23 penetration rate is 94.2% compared to the national average of 93.1%.⁸

⁸ Universal Service Monitoring Report, CC Docket No. 98-202 2006 (Data Received Through May 2006), Table 6.5, Telephone Penetration by State (Annual Average Percentage of Households with Telephone Service).

1 **Q. WOULD AN INCREASED "TAKE RATE" HAVE ECONOMIC**
2 **CONSEQUENCES?**

3
4 **A.** Yes. The USAC does not provide what the estimated take rate is for Missouri, but
5 assume, for purpose of discussion, a current take rate in Missouri of 10%. In order to
6 achieve a 100% take rate for eligible Lifeline households, it would require a 900%
7 increase in the size of the MoUSF and the surcharge would need to increase from 0.18%
8 to approximately 1.8% (an increase of 900%). If the current Lifeline take rate is really
9 only 5% instead of 10%, the surcharge would need to double to 3.6% (an increase of
10 1800%), as would the fund size.

11

12 **Q. PLEASE SUM UP YOUR KEY POINTS RELATING TO THE LACK OF**
13 **MEANINGFUL CHOICE THAT WOULD BE OFFERED BY VCI?**

14
15 **A.** There are numerous choices available to the consumers of Missouri even absent VCI in
16 the marketplace. The mythical underserved and unserved are the creation of VCI to
17 create a sense of need to justify granting its Petition. They point to flawed data in an
18 attempt to show a need, even though the Missouri telephone penetration rate is above the
19 national average. VCI fails to point out the cost to ratepayers of increasing the number of
20 Lifeline subscribers. Also, while it suggests moving consumers from traditional service
21 to Lifeline would increase the state's telephone penetration rate, it fails to disclose that
22 doing so would cause the size of the state USF and the customer surcharge to greatly
23 increase.

24

25 **Q. VCI CONTENDS THAT THE FACT THAT VCI WILL FULFILL ITS LEGAL**
26 **OBLIGATION TO ADVERTISE ITS SERVICE AND RATES MAKES THIS**
27 **PETITION IN THE PUBLIC INTEREST. (JOHNSON DIRECT, P. 21) DO YOU**
28 **AGREE?**

1 A. No. Advertising its rates, including its Lifeline rates, is an obligation a carrier must
2 commit to meet in order to be allowed to be an ETC.⁹ It doesn't make the carrier's
3 application in the public interest, which is a separate and distinct requirement.

4

5

6 **Q. VCI ASSERTS THAT DESIGNATING VCI AS AN ETC WILL REMOVE**
7 **OBSTACLES TO TELEPHONE SUBSCRIPTION FOR LOW-INCOME**
8 **CONSUMERS. (JOHNSON DIRECT, P. 22) DO YOU AGREE?**

9

10 A. No. While VCI claims that it "removes obstacles to telephone subscription for low-
11 income consumers," (Johnson Direct, p. 22), it provides little support for the claim and
12 fails to note (as I demonstrated earlier) that VCI's rates are themselves an obstacle for
13 low income consumers because they are much higher than AT&T Missouri's Lifeline
14 service rates. VCI asserts that many of VCI's customers are unable get service because
15 they can't comply with deposit and past due bill requirements (Johnson Direct, p. 22).
16 His assertion has no legitimate basis.

17

18 As to deposits, federal law is clear, FCC Rule 54.401(c)¹⁰ provides that an ETC "may not
19 collect a service deposit in order to initiate Lifeline service, if the qualifying low-income
20 consumer voluntarily elects toll blocking from the carrier, where available." Thus, while,
21 AT&T Missouri uses credit checks to generally determine if a deposit will be required, it
22 cannot and does not require payment of a deposit if a Lifeline customer accepts toll
23 limitation.¹¹

⁹ 47 C.F.R. §54.201(d)(2) (for basic service); 47 C.F.R. §§54.405(b) (for Lifeline service).

¹⁰ 47 C.F.R. §54.401(c).

¹¹ 47 C.F.R. §54.400(d), Toll limitation. "Toll limitation" denotes either toll blocking or toll control for eligible telecommunications carriers that are incapable of providing both services. For eligible telecommunications carriers that are capable of providing both services, "toll limitation" denotes both toll blocking and toll control.

1 VCI's treatment of past due amounts is similar to AT&T Missouri's own treatment of
2 past due amounts, both of which require repayment of outstanding amounts owed in order
3 to reestablish service. However, AT&T Missouri considers on a case by case basis
4 allowing a customer to pay their past due bills over several months while have use of
5 telephone service.

6
7 In sum, for low-income Lifeline customers who have toll limitation, neither company
8 requires a deposit, and both require payment of past due charges before reconnection of
9 service, except that AT&T Missouri will consider allowing a customer with a past due
10 account to make monthly payments to eliminate the debt, while having telephone service.
11 VCI's claim that these items represent obstacles is without merit.

12
13 **Q. WOULD DESIGNATING VCI AS AN ETC CONTRIBUTE TO LOW-INCOME**
14 **CONSUMERS' INCURRING SIGNIFICANTLY LOWER TOLL CHARGES AS**
15 **VCI CLAIMS? (JOHNSON DIRECT, P. 22).**
16

17 A. No. Just because the customer's toll charges don't appear on VCI's bill to that customer
18 doesn't mean that the individual didn't spend the same or more on toll charges billed by
19 another provider than it would have spent with VCI. It simply means that the customer
20 has two bills, one from VCI and the other from the customer's toll service provider.

21
22 **Q. DOES VCI'S CLAIMED OFFERING OF "PREMIUM SERVICES" PROVIDE A**
23 **UNIQUE ADVANTAGE TO LOW-INCOME CONSUMERS?**
24

25 A. No. Although VCI claims that "VCI as an ETC will permit low-income consumers
26 access to premium services," (Johnson Direct p. 23), it appears that VCI will offer only
27 the services that AT&T Missouri offers. VCI's offerings are not unique.

1 **Q. FINALLY, VCI STATES THAT DESIGNATING VCI WILL "ENSURE LOW-**
2 **INCOME CONSUMERS HAVE A CHOICE IN CARRIERS WHOSE BUSINESS**
3 **PROCEDURES AND PROCESSES SPECIFICALLY BENEFIT THE LOW-**
4 **INCOME CONSUMER." (JOHNSON DIRECT, P. 23). DO YOU AGREE?**
5

6 A. No. This is a restatement of Mr. Johnson's first argument (choice), plus the fourth
7 argument (affordable services) and the fifth argument (availability of premium services).
8 It is not well taken. First, Mr. Johnson says that "VCI bills its low-income customers at
9 the beginning of the month, when the customer is likely to have the funds available."
10 (Johnson Direct, p. 23). However, when the carrier bills the customer is not relevant;
11 what is relevant is when the bill is due, which is likely to be much later in the month.¹² I
12 would speculate that this is not "when the customer is likely to have the funds available."
13 Mr. Johnson notes that VCI offers "a few customer calling features." (Johnson Direct, p.
14 23). However, when it was advantageous to do so, he touted the availability of VCI's
15 premium services to justify approving its Petition. VCI also asserts that it works to keep
16 service affordable and doesn't up-sell customers, yet it admits that it sells various calling
17 features to low-income customers.

18
19 **Q. THE FCC'S PUBLIC INTEREST TEST CONSIDERS THE UNIQUE**
20 **"ADVANTAGES AND DISADVANTAGES" OF THE APPLICANT'S SERVICE**
21 **OFFERING.¹³ WHAT DO YOU PERCEIVE AS THE DISADVANTAGES OF**
22 **VCI'S SERVICE OFFERING?**
23

24 A. As discussed earlier, the cost to consumers using VCI's service is significantly higher
25 than the cost that consumers would pay for AT&T Missouri's service. This is a distinct
26 disadvantage which is inconsistent with the public interest.

¹² See, 4 CSR 240-33.040(5) (stating that "a customer shall have at least twenty-one (21) days from the rendition of a bill to pay the charges stated").

¹³ ETC Designation Order, para. 44.

1 **Q. ARE THE DECISIONS OF OTHER STATES OFFERED BY VCI HELPFUL?**

2 A. No. VCI suggests that because other states have granted VCI ETC status, it necessarily
3 follows that VCI's Petition must be in the public interest in Missouri. However, the
4 value of the orders issued by other states depends on the similarity of conditions between
5 the other state and Missouri, and on the similarity of the analytic framework or standards
6 used in considering VCI's petitions filed in the other states. As the FCC has stated,
7 "[S]ection 214(e)(2) demonstrates Congress's intent that state commissions evaluate local
8 factual situations in ETC cases and exercise discretion in reaching their conclusions
9 regarding the public interest, convenience and necessity, as long as such determinations
10 are consistent with federal and other state law."¹⁴ Absent similar factual situations in the
11 other states and a showing that the other states used similar regulatory processes
12 (particularly with respect to the proof necessary to be designated as an ETC) as this
13 Commission, the attached orders provide little to no support for VCI's Petition before this
14 Commission.

15
16 **Q. DO THE ORDERS FROM OTHER STATES REPRESENT SIMILAR REVIEW**
17 **PROCESSES?**

18
19 A No. Many of the other states utilized a simple administrative process to grant ETC status
20 to a carrier without employing the rigorous analysis used by the FCC and this
21 Commission. For example, VCI was simply required to file a notification letter in
22 California. One of the applications was approved in just 20 days; other applications were
23 approved in five to nine weeks. Few of the orders provided by VCI reflected any
24 analysis of whether the application was in the public interest.

¹⁴ ETC Designation Order, para. 61. (emphasis added).

1 The only proceeding that appears to have had industry intervenors was in Nebraska, and
2 the Nebraska Commission's order mentions a stipulation among VCI and rural carriers,
3 the only other parties to the case.

4

5 In sum, the orders granting VCI ETC status in other states show no proof that VCI meets
6 the standards required by this Commission's rules.

7

8 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

9 A. Yes.

Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT POSITION?

A. I am employed by AT&T Services, Inc. ("AT&T"), as an Associate Director- Regulatory Policy in AT&T's Regulatory Planning and Policy group. My responsibilities include the development of Universal Service policy before the FCC and in all states in which AT&T does business, including Missouri.

Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND.

A. I hold Bachelors Degrees in Telecommunications and Political Science from the University of Oregon. I have also done additional graduate level coursework in Communications at the University of Iowa, and in Political Science at Portland State University.

Q. PLEASE SUMMARIZE YOUR TELECOMMUNICATIONS INDUSTRY WORK EXPERIENCE.

A. I have approximately seventeen years of telecommunications experience. In 1988, I began my career in the telephone industry at the National Exchange Carrier Association ("NECA") in the Industry Relations organization. I was responsible for developing Average Schedule methods and procedures, analyzing the impact of new technologies on the NECA member companies, developing special settlements for carriers implementing new technologies (e.g. Equal Access and SS7) and reviewing and analyzing Federal Communications Commission ("FCC") rule changes. I also assisted in the development of the NECA Access Charge Handbook. In 1992, I joined Bell Atlantic (now Verizon) and worked in a variety of regulatory roles both at Bell Atlantic-West Virginia and Bell Atlantic Corporate in Maryland. My responsibilities included regulatory support,

intercarrier settlement, regulatory finance and marketing. In 1997, I joined American Communications Services, Inc. (ACSI), later known as e.spire Communications, Inc., and now as Xspedius Management Company, as the Director of Carrier Management. My responsibilities with ACSI included wholesale billing, the development of reciprocal compensation policy, billing methods and the billing of reciprocal compensation, industry relations, and the creation and management of their telco cost control organization. In 1998, I left ACSI to provide executive consulting services to competitive local exchange carriers (CLECs) and to a small incumbent local exchange carrier ("ILEC"). This consulting work involved several subjects, including intercarrier compensation, and billing and cost control operations matters. In July 2000, I joined the AT&T family of companies. I work with AT&T's federal regulatory group on various policy matters, particularly universal service fund ("USF") issues, and often serve as the AT&T corporate 13-state policy witness for universal service fund matters. I also participate in the development of corporate policy for intercarrier compensation (i.e. reciprocal compensation and access charges) and have previously participated in the development of corporate policy for advanced services.

Q. WHAT IS YOUR PREVIOUS EXPERIENCE PRESENTING TESTIMONY TO STATE UTILITY REGULATORY COMMISSIONS?

- A. I have prefiled testimony and/or provided oral testimony before the Public Utility Commission of Nevada, the Indiana Utility Regulatory Commission, the Missouri Public Service Commission, the Kansas Corporation Commission and the Illinois Commerce Commission. I have also participated in workshops at the Public Utility Commission of Texas, the Oklahoma Corporation Commission, the Indiana Utility Regulatory Commission, the California Public Utility Commission, the Illinois Commerce Commission, and the Missouri Public Service Commission.