

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of)	
Fidelity Communications Services I Inc. for)	
Designation as an Eligible Telecommunications)	Case No. _____
Carrier for Purpose of Receiving Low-Income and)	
Disabled Customer Support in Missouri.)	

**FIDELITY COMMUNICATIONS SERVICES I INC.'S
APPLICATION TO AMEND AND EXPAND ITS DESIGNATION
AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER**

COMES NOW Fidelity Communications Services I Inc. ("FCSI"), pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (the "Act")¹ and the rules of Federal Communications Commission ("FCC"), including 47 C.F.R. Sections 54.101 through 54.207, Section 392.248 RSMo., and the rules and regulations of the Missouri Public Service Commission ("Commission" or "PSC"), including 4 CSR 240-3.570 and 31.050, and for its Application to Amend and Expand its Designation as an Eligible Telecommunications Carrier ("ETC") for the purpose of receiving low-income and disabled customer support in the CenturyLink Lebanon and Salem service areas, states as follows:

1. FCSI seeks ETC designation in portions of the CenturyLink Missouri service territory, as set forth in the list of exchanges attached hereto as **Exhibit 1** (the "Designated Service Area"), for the purpose of receiving federal universal service support. FCSI is seeking only low-income/disabled customer support, and is not requesting high cost support. As demonstrated below, FCSI satisfies all of the statutory and regulatory requirements for designation as an ETC in the Designated Service Area. Furthermore, designation of FCSI as an ETC in the Designated Service Area will serve the public interest. Accordingly, FCSI respectfully requests that the Commission grant this Application.

¹ 47 U.S.C. § 214(e)(2).

2. All inquiries, correspondence, communications, pleadings, notices, orders and decision to be sent to FCSI relating to this matter should be directed to:

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I. Background

3. FCSI is a Missouri corporation authorized to conduct business within the State of Missouri. A copy of its Certificate of Good Standing is attached hereto and incorporated herein by reference as **Exhibit 2**. Further, FCSI is a Competitive Local Exchange Carrier (“CLEC”) authorized by the Commission to provide basic local exchange services in all wire centers in the Designated Service Area. FCSI has been providing services in Missouri since 2000.² On November 6, 2001, FCSI was granted ETC Status in the Rolla, Missouri exchange in Case No. TA-2002-122. The principal office of FCSI is located at 64 North Clark, Sullivan, MO 63080. The telephone number of FCSI is 573/468-8081. FCSI primarily provides local exchange services in the Designated Service Area using its own facilities; however, FCSI does also provide service to some customers via leased facilities and through resale.

4. As set forth in Section 214(e)(2) of the Act, the Commission “shall upon its own motion or upon request designate a common carrier that meets the requirements of [Section 214(e)(1)] as an eligible telecommunications carrier for a service area designated by the State

² FCSI was originally certificated by the Missouri Public Service in Case No. TA-2000-181.

Commission.”³ Upon designation as an ETC, the carrier shall be eligible to receive universal support in accordance with Section 254 of the Act.⁴

5. The requirements for designation as an ETC set forth in Section 214(e)(1) are that the carrier must:

a) offer the services that are supported by Federal universal support mechanisms under Section 254(c), 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); and

b) advertise the availability of such services and the charges therefore using the media of general distribution.⁵

II. FCSI satisfies the requirements for designation as an ETC to serve the Designated Service Area.

6. FCSI is a common carrier as that term is defined in the Act.⁶ FCSI provides competitive local exchange services in the Designated Service Area pursuant to certificate granted in TA-2000-181 as referenced above.

7. FCSI offers all of the supported services enumerated under Section 254(c) using a combination of its own facilities and facilities obtained as unbundled network elements (UNEs), or the equivalents thereof and resold services, through commercial agreements. According to the FCC Rules, facilities obtained as UNEs satisfy the requirement that an ETC provide the supported services using either its own facilities or a combination of its own facilities and resale

³ 47 U.S.C. § 214(e)(2); *See* 47 C.F.R. § 54.201(b) (FCC Rules citing the Act’s requirements).

⁴ 47 U.S.C. § 214(e)(1).

⁵ *Id.*

⁶ *See* 47 U.S.C. § 153(10) (“the term ‘common carrier’ or ‘carrier’ means any person engaged as a common carrier for hire, in interstate or foreign communication by wire or radio or in interstate or foreign radio transmission of energy . . .”).

of another carrier's services.⁷ Accordingly, FCSI satisfies the requirement set forth in Section 214(e)(1)(A).

8. The services that are supported by Federal universal support mechanisms under Section 254(c) are enumerated in the rules of the FCC at 47 C.F.R. § 54.101(a)(1)-(9); and in the PSC's rules at 4 CSR 240-3.570(3)(C)(1). These services are:

- a) Voice grade access to the public switched network. "Voice grade access" is defined as a functionality that enables a user of telecommunications services to transmit voice communications, including signaling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal indicating there is an incoming calls. For the purposes of this part, bandwidth for voice grade access should be, at a minimum, 300 to 3,000 Hertz;
- b) Local usage. "Local usage" means an amount of minutes of use of exchange service, prescribed by the FCC, provided free of charge to end users;
- c) Dual tone multi-frequency signaling or its functional equivalent. "Dual tone multi-frequency" (DTMF) is a method of signaling that facilitates the transportation of signaling through the network, shortening call set-up-time;

⁷ Section 54.20(f) of the FCC's Rules states: "[f]or the purposes of this section, the term 'own facilities' includes, but is not limited to, facilities obtained as unbundled network elements pursuant to Part 51 of this chapter, provided that such facilities meet the definition of the term 'facilities' under this subpart." 47 C.F.R. § 54.201(f). The term "facilities" under Section 54.201 is defined as "any physical components of the telecommunications network that are used in the transmission of routing of the services that are designated for support pursuant to subpart B of this part." 47 C.F.R. § 54.201(e). Although FCSI is primarily a facilities-based service provider, FCSI does have a few UNE customers. FCSI's use of UNEs meets the above definition of "facilities."

- d) Single-party service or its functional equivalent. “Single-party service” is telecommunications service that permits users to have exclusive use of a wireline subscriber loop or access line for each call placed, or, in the case of wireless telecommunications carriers, which use spectrum shared among users to provide service, a dedicated message path for the length of a user’s particular transmission;
- e) Access to emergency services and Emergency telephone number services capable of automatic number identification, automatic location identification, and call routing facilities to public safety response. “Access to emergency services” includes access to services, such as 911 and enhanced 911, provided by local governments or other public safety organizations. 911 is defined as a service that permits a telecommunications user, by dialing the three-digit code “911”, to call emergency services through a Public Service Access Point (PSAP) operated by the local government. “Enhanced 911” is defined as 911 service that includes the ability to provide automatic numbering information (ANI), which enables the PSAP to call back if the call is disconnected, and automatic location information (ALI), which permits emergency service providers to identify the geographic locations of the calling party. “Access to emergency services” includes access to 911 and enhanced 911 services to the extent the local government in an eligible carrier’s service area has implemented 911 or enhanced 911 systems;

- f) Access to operator services. “Access to operator services” is defined as access to any automatic or live assistance to a consumer to arrange for billing or completion, or both, of a telephone call;
- g) Access to interexchange service. “Access to interexchange service” is defined as the use of the loop, as well as that portion of the switch that is paid for by the end user, necessary to access an interexchange carrier’s network;
- h) Access to directory assistance. “Access to directory assistance” is defined as access to a service that includes, but is not limited to, making available to customers, upon request, information contained in directory listings;
- i) Toll limitation and/or blocking for qualifying low-income consumers; and
- j) Access to telecommunications relay services by dialing 711.

9. FCSI also provides essential local telecommunications services as defined in 4 CSR 240-31.010 and is eligible for Missouri low-income and disabled customer USF support pursuant to 4 CSR 240-31.050.

10. Pursuant to 4 CSR 240-3.570(3)(A), FCSI has developed a bill design that can be easily interpreted by its customers and clearly sets forth charges in compliance with state and federal billing requirements. A sample bill is attached hereto as **Exhibit 3**.

11. Pursuant to 4 CSR 240-3.570(3)(B), FCSI shall provide customer service contact information online and on billing statements. FCSI acknowledges that this requirement also applies to ETCs that use a third party billing agent.

12. Pursuant to 4 CSR 240-3.570(3)(E), FCSI shall maintain a record of customer complaints that have been received by the company in a manner that includes,

at a minimum: the end-user name; the account number; a description of the complaint; the date the complaint was filed; the resolution; and the amount of refund or credit, if any. FCSI shall also maintain records of complaints from consumers in the Missouri service area in which ETC designation is granted that have been submitted to or filed with the Federal Communications Commission for which the Company has knowledge in a manner that includes, at a minimum: a description of the complaint; the date the complaint was filed; the date the complaint was resolved; the resolution of the complaint and the amount of refund of credit, if any.

13. Pursuant to 4 CSR 240-3.570(3)(F), FCSI shall, within ten (10) days of a change in the company designated contacts, either notify the manager of the Commission's Telecommunications Department, in writing or by electronic mail, or shall update the Commission's electronic filing system (EFIS). The notification or update shall include the name(s), address(es) and/or telephone number(s) of the designated individual(s). The contact name(s) provided pursuant to this section shall be the individual(s) primarily responsible for: customer service, repair and maintenance, answering complaints; authorizing and/or furnishing refunds to customers; and information or tariff filing issues.

14. Upon designation as an ETC, FCSI will participate in, and offer, Lifeline and Link-Up discounts to qualifying low-income consumers and publicize the availability of Lifeline and Link-Up services using media of general distribution in a manner reasonably designed to reach and fully inform those likely to qualify for those services, all as required by FCC Rules⁸ and pursuant to 4 CSR 240-3.570(2)(A)7.

⁸ See 47 C.F.R. §§ 54.401 – 54.417; 54.405(b) & 54.411(d).

15. FCSI will advertise the availability of services and charges for those services using media of general distribution throughout the Designated Service Area, as required by FCC Rules⁹ and pursuant to 4 CSR 240-3.570(2)(A)6.

III. Areas for Which ETC Certification is Requested

16. FCSI has served and will continue to serve the exchanges in the Designated Service Area, as well as FCSI's existing ETC Service Area in Rolla, Missouri.

IV. Granting FCSI Application Will be Consistent with the Public Interest, Convenience and Necessity

17. Congress requires that the Commission grant competitive ETC applications in non-rural areas.¹⁰ No specific public interest test is mentioned for non-rural areas, in contrast to areas served by rural telephone companies.¹¹ Thus, the Act provides that the Commission "shall" designate FCSI as an ETC upon finding that the company meets the nine-point list of services and that it agrees to advertise the supported services throughout the Designated Service Area. But in any event, pursuant to 4 CSR 240-3.570(2)(A)5, the designation of FCSI as an ETC will serve and be consistent with the public interest, convenience and necessity.

18. A central purpose of the Telecommunications Act of 1996 was to "promote competition and reduce regulation ... [thereby securing] lower prices and higher quality services."¹² Designation of FCSI as an ETC would further these goals.

19. Pursuant to 4 CSR 240-3.570(2)6, FCSI will announce and advertise telecommunications services as an ETC where it provides service in its Designated

⁹ See 47 C.F.R. §§ 54.201(d)(2).

¹⁰ See 47 U.S.C. 214(e)(2).

¹¹ See *Id.*

¹² The Telecommunications Act of 1996, Pub.L. No. 104-104, 110 Stat. 56, 56 (1996).

Service Area in Missouri and will publicize the availability of Lifeline and Link-Up services in a manner reasonably designated to reach those likely to qualify for those services. Accordingly, more low-income Missouri residents will be made aware of the opportunities afforded to them under the Lifeline and Link-Up programs and will be able to take advantage of those opportunities by subscribing to FCSI's service.

20. A grant of FCSI's application will serve the public interest by increasing customer choice for eligible low-income customers and the market as a whole by promoting additional deployment of FCSI's local exchange service offerings to the areas served by CenturyLink. FCSI offers quality service at affordable prices. FCSI adds another choice of provider for low-income customers in the Designated Service Area. In addition, the public interest will be served by assuring quality telecommunications service to low-income customers in the Designated Service Area through the commitments FCSI makes with respect to the ETC designation.

21. FCSI will provide universal service as an ETC in all of its Designated Service Area in accordance with Commission rules, including but not limited to the provisions of 4 CSR 240-3.570(5) applicable to wireline carriers.

22. Pursuant to 4 CSR 240-3.570(2)9, FCSI acknowledges it shall provide equal access pursuant to 4 CSR 240-32.100(3) and (4) if all other ETCs in the Designated Service Area relinquish their designations pursuant to Section 214(e) of the Telecommunications Act of 1996. The FCC's ETC Order does not impose a general equal access requirement on ETC applicants at this time, but instead suggests the applicants acknowledge that an ETC applicant may be required to provide equal access to long distance carriers in their designated service area in the event that no other ETC is

providing equal access within the service area. FCSI acknowledges this potential and will abide by the requirement should it occur in the future. As a practical matter, CenturyLink and FCSI both provide equal access at this time.

23. FCSI is aware that it may seek USF funding only with respect to those customers that it serves through the use of its own facilities (including leased UNEs).

24. Pursuant to 4 CSR 240-3.570(2)(A)1-3, each request for ETC designation shall include: the intended use of the high-cost support and a two year plan to demonstrate the proper use of high-cost support. Under FCC guidelines, an ETC applicant must submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network on a wire center-by-wire center basis throughout its proposed Designated Service Area. The only circumstances warranting deviation from this requirement is where an applicant's requested ETC serving territory would qualify it to receive no "high cost" USF support, but only "low income" USF support. Because FCSI seeks ETC designation solely for purposes of reimbursement for provision of subsidized Lifeline and Link-Up services to eligible customers, submission of a Five-Year Network Improvement Plan per FCC guidelines is not required at this time; and the provisions of 4 CSR 240-3.570(2)(A)1-3 are not applicable to FCSI. Based upon the foregoing, FCSI respectfully requests a waiver of 4 CSR 240-3.570(2)(A)1-3. Since Lifeline support is designated to reduce the monthly cost of telecommunications services for eligible consumers, and is distributed on a per-customer basis and is directly reflected in the price that the eligible customer pays, it is assured that all support received by the carrier is used to provide Lifeline services to

consumers, thus promoting Lifeline and the availability of telephone service to low income users, which is clearly in the public interest.

25. Pursuant to 4 CSR 240-3.570(2)10, FCSI is committed to offer a local usage plan comparable to those offered by the incumbent local exchange carrier in the areas for which the carrier seeks designation. FCSI offers a local usage plan with unlimited calling within the customer's local calling area for a flat monthly fee with the exact same local calling scope as the Incumbent Local Exchange Carriers (ILEC). Specifically, FCSI's basic local and bundled plans all provide for unlimited local calling, with the bundle plans offering additional features and long distance options. FCSI's commitment includes a commitment to provide Lifeline and Link-Up discounts and Missouri Universal Service Fund (MoUSF) discounts pursuant to 4 CSR 240-31, if applicable, at rates, terms and conditions comparable to the Lifeline and Link-Up offerings and MoUSF offerings in the incumbent local exchange carrier providing service in the ETC service area. FCSI's proposed offerings of Lifeline and Link-Up services will clearly be in the public interest. FCSI intends to offer service provided over its own facilities at the rates as follows, which are comparable to the plans offered by CenturyLink in the Designated Service Area:

	<u>Tariff Price</u>	<u>Price with Lifeline Credit</u>
Basic Service – basic line service		
1. Lebanon and Salem	\$18.00	\$4.50

26. Under FCC and Commission guidelines, an ETC applicant must demonstrate that it will satisfy applicable consumer privacy protection (per 47 CFR 64 Subpart U) and service quality standards. 47 CFR § 54.202(a)(3); 4 CSR 240-3.570(2)8. FCSI currently does and will continue to satisfy all such standards. As part of its certification requirements for providing local exchange services, FCSI must abide by the service quality and consumer privacy protection rules. FCSI in general commits to satisfying all such applicable state and federal requirements related to consumer privacy protection and service quality standards.

27. Under FCC and Commission guidelines, an ETC applicant must demonstrate its ability to remain functional in emergency situations. 47 CFR § 54.202(a)(2); 4 CSR 240-3.570(2)4. FCSI currently has ETC status and certifies annually that it has backup power procedures in place to continue to be able to function in emergency situations (with the possible exception of a catastrophic emergency) in the Rolla, Missouri exchange. FCSI will continue to do so in Rolla and in the requested Designated Service Areas.

28. Under FCC guidelines, as an ETC FCSI must commit to provide service throughout its proposed Designated Service Area to all customers making a reasonable request for service. 47 CFR § 54.202(a)(1)(i). FCSI commits to provide service throughout its proposed ETC-designated service area to all customers making a reasonable request for service. Furthermore, as stated above, FCSI is eligible for ETC designation since it offers all of the supported services enumerated under Section 254(c) using its own facilities or facilities obtained as UNEs through commercial agreements. According to FCC Rules, facilities obtained as UNEs satisfy the requirement that an ETC

provide the supported services using either its own facilities or a combination of its own facilities and resale of another carrier's services. Based upon the foregoing, FCSI respectfully requests a waiver of the requirements of 4 CSR 240-3.570(2)(C) and 4 CSR 240-3.570(3)(C)(3) (network extension requirements and subpart (c)). Since FCSI will be providing service to customers only in its service area, FCSI anticipates that it will be able to provide service to all customers making a reasonable request for service.

However, in the event that FCSI is not able to provide service to a customer making a reasonable request for service in the Designated Service Area, pursuant to 4 CSR 240-3.570(3)(C)(3)(A) and (B), FCSI will attempt to offer resold service of other carriers that have facilities available to that premises. Furthermore, pursuant to 4 CSR 240-3.570(3)(C)(3)(D), if there is no possibility of providing service to the requesting customer, FCSI will notify the customer and include such information in FCSI's annual certification documentation to the Commission.

29. FCSI has no pending actions or final unsatisfied judgments 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 this application. No Commission annual reports or assessment fees are overdue.

30. To the best of FCSI's knowledge, its account is current with the FCC in regards to regulatory fees; and its account is current with the Universal Service Administrative Company in regards to universal service contribution. FCSI is aware that there may be an audit of the use of universal service funds and that the eligible telecommunications service designation is reviewed annually by state commissions.

31. FCSI currently has ETC status in the Rolla, Missouri exchange. FCSI's affiliate, Fidelity Telephone Company, has been granted designated an ETC throughout its rural service area by the state of Missouri.

32. As indicated above, FCSI seeks waiver of the following regulations which are only applicable to high cost support requirements:

4 CSR 240-3.570(2)(A)1-3

4 CSR 240-3.570(2)(C)

4 CSR 240-3.570(3)(C)(3) (network extension requirement and subpart c)

No public utility will be affected by these waivers.

33. FCSI expressly confirms that it will comply with all requirements identified in 4 CSR 240-31.050, which pertains to eligibility requirements for funding of low-income and disabled customers.

34. FCSI commits to remit 911 revenues to local authorities.

35. FCSI commits to provide service in a timely manner.

36. FCSI will not collect a deposit from a Lifeline subscriber if the consumer voluntarily elects toll limitation service.

37. FCSI will not charge a Lifeline subscriber a monthly number portability charge.

38. As an existing ETC, FCSI has a process in place to verify customer eligibility and documentation received, plus FCSI has a process to verify a customer's continued eligibility.

39. As an existing ETC, FCSI currently uses Missouri's approved Lifeline application form and will continue to do so.

40. Expanded ETC destination would be consistent with the public interest.

V. Relief Requested

For the foregoing reasons, FCSI requests that the Commission grant its application for expanded ETC designation and designate it as an ETC for the Designated Service Area, and grant the waivers requested herein.

Respectfully submitted

/s/ Brian T. McCartney

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was sent by U.S. Mail, postage prepaid, or hand-delivered on this 22nd day of February, 2012, to the following parties:

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