

Exhibit No.:

Issues: Competitive Status

Witness: John Van Eschen

Sponsoring Party: MO PSC Staff

Type of Exhibit: Supplemental Direct

Case No.: IO-2006-0108

Date Testimony Prepared: September 23, 2005

**MISSOURI PUBLIC SERVICE COMMISSION**

**UTILITY OPERATIONS DIVISION**

**SUPPLEMENTAL DIRECT TESTIMONY**

**OF**

**JOHN VAN ESCHEN**

**MISSOURI PUBLIC SERVICE COMMISSION**

**CASE NO. IO-2006-0108**

**Jefferson City, Missouri**

**September 2005**

Exhibit No. 15  
Case No(s). IO-2006-0108  
Date 9-28-05 Rptr TLT

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

In the Matter of Spectra Communications )  
Group, LLC d/b/a CenturyTel's Request )  
for Competitive Classification Pursuant to )  
Section 392.245.5, RSMo (2005) )

Case No. IO-2006-0108


**AFFIDAVIT OF JOHN VAN ESCHEN**

**STATE OF MISSOURI** )  
 ) ss  
**COUNTY OF COLE** )

John Van Eschen, of lawful age, on his oath states: that he has participated in the preparation of the following Supplemental Direct Testimony in question and answer form, consisting of 7 pages of Supplemental Direct Testimony to be presented in the above case, that the answers in the following Supplemental Direct Testimony were given by him; that he has knowledge of the matters set forth in such answers; and that such matters are true to the best of his knowledge and belief.

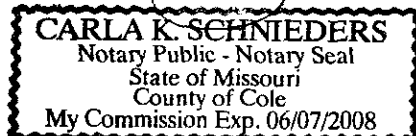
  
\_\_\_\_\_  
John Van Eschen

Subscribed and sworn to before me this 23<sup>rd</sup> day of September, 2005.

  
\_\_\_\_\_  
Notary Public

My commission expires

June 7, 2008



1                                   **SUPPLEMENTAL DIRECT TESTIMONY**  
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3                                   **OF**  
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5                                   **JOHN VAN ESCHEN**  
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7                                   **MISSOURI PUBLIC SERVICE COMMISSION**  
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9                                   **CASE NO. IO-2006-0108**  
10

11  
12           Q.     Please state your name and business address.

13           A.     My name is John Van Eschen. My business address is 200 Madison  
14 Street, Jefferson City, Missouri 65102-0360.

15           Q.     Are you the same John Van Eschen that filed Direct Testimony in this  
16 case?

17           A.     Yes, I am.

18           Q.     What is the purpose of your Supplemental Direct Testimony?

19           A.     My purpose is to discuss the service offering of News-Press and Gazette  
20 Company d/b/a St. Joseph Cablevision (St. Joseph Cablevision or NPG Cable). On  
21 page 11 of my Direct Testimony, beginning on line 3, I indicate that the Commission  
22 Staff is "...still in the process of confirming certain information from News-Press and  
23 Gazette Company d/b/a St. Joseph Cablevision (St. Joseph Cablevision), the provider  
24 alleged by Spectra as providing local voice service in the Savannah exchange...." As a  
25 result, Staff had been unable to confirm that St. Joseph Cablevision is providing service  
26 in the Savannah exchange. Consequently at the time Direct Testimony was filed, Staff  
27 recommended the Commission deny competitive classification for the Savannah  
28 exchange in the provisioning of local voice services. The purpose of this Supplemental

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1 Direct Testimony is to recommend the Commission grant competitive status to the  
2 Savannah exchange in the provisioning of residential local voice services.

3 Q. Why are you recommending the Commission grant competitive status to  
4 the Savannah exchange for the provisioning of residential local voice services?

5 A. Since I filed my Direct Testimony on September 19, 2005, Staff has talked  
6 with representatives of both St. Joseph Cablevision and Sprint Communications  
7 Company L.P. (Sprint), the competitively classified Sprint company. Based on these  
8 discussions, I conclude St. Joseph Cablevision is providing local voice service in a way  
9 that qualifies the Savannah exchange for competitive classification for the provisioning  
10 of residential services. I will attempt to explain my understanding of St. Joseph  
11 Cablevision's offering and St. Joseph Cablevision's relationship with Sprint.

12 Q. What is your understanding of St. Joseph Cablevision's offering?

13 A. St. Joseph Cablevision offers Digital Phone service to residential  
14 customers within the exchanges of Agency, St. Joseph and Savannah where it offers  
15 cable TV service. The company claims it does not offer the same or a similar service to  
16 business customers. St. Joseph Cablevision uses its own cable TV network to connect to  
17 the residential customer's premise. St. Joseph Cablevision supplies a box or adaptor to  
18 subscribers which is placed at the customer's residence. The adaptor interfaces with the  
19 customer's existing inside wiring so the customer can use existing telephone equipment  
20 and jacks. The adaptor essentially alters the format of a voice call so that it traverses  
21 St. Joseph Cablevision's network using an Internet protocol. St. Joseph Cablevision  
22 routes all calls to Sprint Communications Company L.P. which interfaces with the public  
23 switched network.

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1           Q.     What functions does Sprint provide for St. Joseph Cablevision?

2           A.     Sprint performs all switching functions for St. Joseph Cablevision. Sprint  
3 converts the call's format between the Internet protocol format to the time division  
4 multiplex format used by the public switched telephone network depending on whether  
5 the call traverses the public switched telephone network. Sprint obtains telephone  
6 numbers for St. Joseph Cablevision and places the telephone numbers for St. Joseph  
7 Cablevision in the appropriate 911 data base. Sprint also provides such services as  
8 operator services and directory assistance services for St. Joseph Cablevision. Sprint  
9 does not bill St. Joseph Cablevision subscribers. Instead Sprint is reimbursed for the  
10 wholesale services it provides to St. Joseph Cablevision based on a private contract  
11 between the two entities.

12          Q.     Is St. Joseph Cablevision's offering similar to other cable TV local voice  
13 service offerings?

14          A.     Yes. I might consider St. Joseph Cablevision's offering similar to the  
15 local voice service offering of Time Warner. Both companies offer cable TV services  
16 and rely on Sprint for routing calls over the public switched network. Representatives of  
17 St. Joseph Cablevision acknowledge St. Joseph Cablevision's service might be  
18 considered similar to Time Warner's local voice service offering. I might also add  
19 St. Joseph Cablevision's service might be considered similar to the service offered by Big  
20 River Telephone Company and SEMO, a cable TV company in southeast Missouri. In  
21 that arrangement, the competitive local exchange company rather than the cable TV  
22 company is the company claiming they are providing service to customers.

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1           Q.     Are there any additional issues raised by St. Joseph Cablevision's  
2 offering?

3           A.     Yes. St. Joseph Cablevision's Recommendation and Objection in this case  
4 states the company "...does not provide any form of telecommunications service in  
5 Missouri. NPG Cable is a provider of voice over internet protocol ("VoIP") services in  
6 the Savannah exchange. NPG Cable is not a wireline competitor providing local voice  
7 service to residential customers." In addition, I should point out that St. Joseph  
8 Cablevision is not a certificated provider of basic local telecommunications service in  
9 Missouri. I would like to comment on each of these items.

10          Q.     What comments do you have regarding the previously identified  
11 statements in St. Joseph Cablevision's Recommendation and Objection in this case?

12          A.     In my opinion, St. Joseph Cablevision is claiming it does not provide any  
13 form of telecommunications service in Missouri because of its belief that VoIP services  
14 are not regulated by the Missouri Commission. I don't intend to get into a debate as to  
15 whether the Missouri Commission has the authority to regulate St. Joseph Cablevision's  
16 offering. I am not addressing the Commission's authority in this proceeding because  
17 Missouri law in describing the type of entity that would qualify an exchange for  
18 competitive status under the 30-day track would appear to count St. Joseph Cablevision's  
19 offering.

20          Q.     Why do you believe Missouri law would count St. Joseph Cablevision's  
21 offering as a qualifying entity for competitive status under the 30-day track?

22          A.     Section 392.245.5(2) states, "Any entity providing local voice service in  
23 whole or in part over telecommunications facilities in which it or one of its affiliates have

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1 an ownership interest shall be considered as basic local telecommunications service  
2 provider regardless of whether such entity is subject to regulation by the commission....”

3 In addition, Section 392.245.5(3) defines local voice service as “...two-way voice service  
4 capable of receiving calls from a provider of basic local telecommunications services as  
5 defined by subdivision (4) of Section 386.020, RSMo.” St. Joseph Cablevision’s offering  
6 appears to fit the statutory definition for local voice service. Therefore, St. Joseph  
7 Cablevision’s offering should allow an exchange to be classified as competitive under the  
8 30-day track regardless of whether the Commission regulates the company’s services.

9 Section 392.245.5(2) does identify situations where an entity’s service offering  
10 would not allow an exchange to be classified as competitive under the 30-day track;  
11 however, in my opinion, St. Joseph Cablevision’s service would not fit those exceptions.  
12 Specifically, Section 392.245.5(2) states, “...A provider of local voice service that  
13 requires the use of a third party, unaffiliated broadband network or dial-up Internet  
14 network for the origination of local voice service shall not be considered a basic local  
15 telecommunications service provider....” In contrast to this section, St. Joseph  
16 Cablevision uses its own broadband network in the Savannah exchange for the  
17 origination of local voice service. Therefore, I recommend St. Joseph Cablevision’s  
18 offering should qualify an exchange for competitive status under the 30-day track.

19 Q. If the Commission concludes St. Joseph Cablevision’s offering qualifies  
20 the Savannah exchange for competitive status, does such a conclusion appear to lock the  
21 Commission into reaching a similar conclusion for all other VoIP-related offerings?

22 A. No. As explained in the VoIP Industry Task Force Report filed on  
23 March 30, 2004, in Case No. TW-2004-0324, there are different variations of VoIP

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1 offerings. There can even be variations between VoIP offerings that might be placed in  
2 the same application of VoIP technology. Depending on the application and  
3 arrangement, the Commission could conceivably reach different conclusions. In this  
4 instance, St. Joseph Cablevision owns facilities within these exchanges to provide  
5 residential local voice service to these exchanges.

6 Q. What comments do you have regarding the fact St. Joseph Cablevision  
7 does not have a certificate of service authority from the Missouri Commission?

8 A. In other competitive classification request proceedings I have said on the  
9 record that if an entity lacks the proper authority to providing service, such certification  
10 and tariffing expectations need to be resolved before the Commission grants competitive  
11 status. In this particular instance, however, I would not recommend the Commission  
12 delay the granting of competitive status to the Savannah exchange over this issue. In this  
13 instance, the competitor has stated it only provides VoIP service. This claim has not been  
14 made in the other cases. A state commission's authority over VoIP offerings may be  
15 debated by different parties. I would not wait for this issue to be resolved by the parties  
16 before proceeding with competitive classification.

17 Q. Can you summarize your recommendation in this case?

18 A. Yes. As explained in my Direct Testimony, I recommend competitive  
19 status be granted to Ewing, LaBelle, Lewistown and Macon for both residential and  
20 business services. I also recommend competitive status be granted to the Savannah  
21 exchange for residential service, as explained in this amended testimony. In granting  
22 competitive status, the Commission should identify the conditions for granting  
23 competitive status. In these instances, competitive status is granted on the basis that at



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1 least one wireline company is providing local voice service and such service is being  
2 provided by the use of switching and/or local loop facilities owned by the provider or an  
3 affiliate of the provider.

4 Q. Does this conclude your testimony?

5 A. Yes, it does.