

Exhibit No.:
Issue: ETC Status
Witness: Robert C. Schoonmaker
Type of Exhibit: Rebuttal Testimony
Sponsoring Party: Citizens Telephone Co. and
Alma Telephone Company
Case No.: TO-2003-0531
Date: December 5, 2003

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED

DEC 05 2003

CASE NO. TO-2003-0531

Missouri Public
Service Commission

RECEIPT COPY

REBUTTAL TESTIMONY

OF

ROBERT C. SCHOONMAKER

ON BEHALF OF

CITIZENS TELEPHONE COMPANY

AND

ALMA TELEPHONE COMPANY

FILED³

FEB 19 2004

Missouri Public
Service Commission

Exhibit No. 8
Case No(s). TO-2003-0531
Date 1-28-04 Rptr TUT

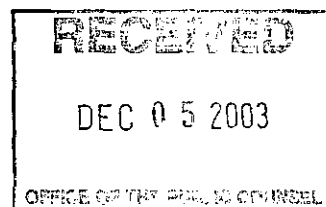


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BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of)
Missouri RSA No. 7 Limited Partnership)
d/b/a Mid-Missouri Cellular) Case No. TO-2003-0531
for Designation as a Telecommunications)
Company Carrier Eligible for Federal Universal)
Service Support pursuant to §254 of the)
Telecommunications Act of 1996.)

AFFIDAVIT OF ROBERT C. SCHOONMAKER

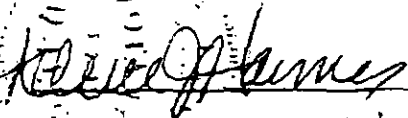
Robert C. Schoonmaker, of lawful age, being duly sworn, deposes and states as follows:

1. My name is Robert C. Schoonmaker. I am employed by GVNW Consulting, Inc. as President and Chief Executive Officer.
2. Attached hereto and made a part hereof for all purposes is my direct testimony with accompanying schedules.
3. I hereby affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct to the best of my knowledge and belief and that the information contained in the attached schedules is also true and correct to the best of my knowledge and belief.



Robert C. Schoonmaker

Subscribed and sworn to before me this 5th day of December, 2003.



Notary Public

My Commission expires: 3/13/2005

1 REBUTTAL TESTIMONY OF ROBERT C. SCHOONMAKER

2
3 Q. Please state your name and address.

4 A. My name is Robert C. Schoonmaker. My business address is 2270 La Montana
5 Way, Colorado Springs, Colorado 80918.
6

7 Q. By whom are you employed and in what capacity?

8 A. I am President and CEO of GVNW Consulting, Inc., a consulting firm
9 specializing in working with small telephone companies.
10

11 Q. Would you please outline your educational background and business experience?

12 A. I obtained my Masters of Accountancy degree from Brigham Young University in
13 1973 and joined GTE Corporation in June of that year. After serving in several
14 positions in the revenue and accounting areas of GTE Service Corporation and
15 General Telephone Company of Illinois, I was appointed Director of Revenue and
16 Earnings of General Telephone Company of Illinois in May, 1977 and continued
17 in that position until March, 1981. In September, 1980, I also assumed the same
18 responsibilities for General Telephone Company of Wisconsin. In March, 1981, I
19 was appointed Director of General Telephone Company of Michigan and in
20 August, 1981 was elected Controller of that company and General Telephone
21 Company of Indiana, Inc. In May, 1982, I was elected Vice President-Revenue
22 Requirements of General Telephone Company of the Midwest. In July, 1984, I
23 assumed the position of Regional Manager of GVNW Inc./Management (the
24 predecessor company to GVNW Consulting, Inc.) and was later promoted to the

1 position of Vice President. I served in that position until October 1, 2003 except
2 for the period between December 1988 and November, 1989 when I left GVNW
3 to serve as Vice President-Finance of Fidelity and Bourbeuse Telephone
4 Companies. I was elected to the position of President and Chief Executive
5 Officer effective October 1, 2003. In summary, I have had over 25 years of
6 experience in the telecommunications industry working with incumbent local
7 exchange carrier companies.

8
9 Q. What are your responsibilities in your present position?

10 A. In my current position I have overall responsibility for the management and
11 direction of GVNW Consulting, Inc. In addition, I consult with independent
12 telephone companies and provide financial analysis and management advice in
13 areas of concern to these companies. Specific activities which I perform for client
14 companies include regulatory analysis, consultation on regulatory policy,
15 financial analysis, business planning, rate design and tariff matters,
16 interconnection agreement analysis, and general management consulting.

17
18 Q. Have you previously testified in regulatory proceedings?

19 A. Yes, I have submitted testimony and/or testified on regulatory policy, local
20 competition, rate design, accounting, compensation, tariff, rate of return,
21 interconnection agreements, and separations related issues before the Illinois
22 Commerce Commission, the Public Service Commission of Wisconsin, the
23 Michigan Public Service Commission, the Iowa Utilities Board, the Tennessee

1 Public Service Commission, the New Mexico Public Regulation Commission, the
2 Public Utilities Commission of the state of South Dakota and the Missouri Public
3 Service Commission. In addition, I have filed written comments on behalf of our
4 firm on a number of issues with the Federal Communications Commission and
5 have testified before the Federal-State Joint Board in CC Docket #96-45 on
6 Universal Service issues.

7
8 Q. On whose behalf are you testifying in this case?

9 A. I am testifying on behalf of Citizens Telephone Company and Alma Telephone
10 Company in this case. I refer to these companies as "Citizens" and "Alma", or
11 "the Companies".

12
13 Q. What is the purpose of your testimony?

14 A. Mid-Missouri Cellular, Inc.'s ("MMC") Petition seeks to have MMC designated
15 as an eligible telecommunications carrier ("ETC") for federal Universal Service
16 Fund ("USF") support for Missouri RSA No. 7, including the rural high-cost areas
17 served by Citizens and Alma. I will respond to the testimony presented by MMC
18 supporting that Petition and will describe why I do not believe that MMC has
19 demonstrated that such a designation is in the public interest.

20
21 Q. What responsibility does the Act give to state Commissions in the ETC
22 designation process?

1 A. Section 214(e)(2) of the Telecommunications Act of 1934, as amended by the
2 Telecommunications Act of 1996 ("the Act") states in relevant part:

3 Upon request and consistent with the public interest, convenience, and
4 necessity, the State commission may, in the case of an area served by a
5 rural telephone company, and shall, in the case of all other areas,
6 designate more than one common carrier as an eligible
7 telecommunications carrier for a service area designated by the State
8 commission, so long as each additional requesting carrier meets the
9 requirements of paragraph (1). Before designating an additional
10 eligible telecommunications carrier for an area served by a rural
11 telephone company, the State commission shall find that the
12 designation is in the public interest.
13

14 Thus, Commission *must* designate more than one carrier as an ETC in a *non-rural*
15 *area* if the carrier requesting designation meets the requirements of Section
16 214(e)(1). However, in regard *rural areas* the Commission *may* designate more
17 than one carrier *only if* the commission finds that the designation is consistent
18 with the public interest, convenience and necessity; and the requirements of
19 Section 214(e)(1) are met. Section 214(e)(1) requires:

20 (e) PROVISION OF UNIVERSAL SERVICE.--

21 (1) ELIGIBLE TELECOMMUNICATIONS CARRIERS.--A
22 common carrier designated as an eligible telecommunications
23 carrier under paragraph (2) or (3) shall be eligible to receive
24 universal service support in accordance with section 254 and shall,
25 throughout the service area for which the designation is received--

26 (A) offer the services that are supported by Federal
27 universal service support mechanisms under section 254(c),
28 either using its own facilities or a combination of its own
29 facilities and resale of another carrier's services (including
30 the services offered by another eligible telecommunications
31 carrier); and

32 (B) advertise the availability of such services and
33 the charges therefor using media of general distribution.
34

1 Thus, the Commission in the case of MMC's Petition relative to Citizens and
2 Alma must address MMC's compliance with Section 214(e)(1) and beyond that
3 whether the Petition is in the public interest.
4

5 Q. Can the Commission deny MMC's Petition?

6 A. Certainly. If the criteria, including the public interest criteria, are not met, then
7 the Commission may deny MMC's Petition. In fact, in an ETC designation case
8 in Utah, the Utah Public Service Commission decided it was not in the public
9 interest to add a second ETC in the service territories of Utah's rural carriers by
10 an order issued July 21, 2000, in Docket No. 98-2215-01. This order was
11 subsequently upheld by the Utah Supreme Court in *WWC Holding Co. v. Public*
12 *Service Commission of Utah*, 44 P.3d 714 (Utah 2002).
13

14 Q. MMC's Petition notes that this case marks the first instance where the
15 Commission has had to address the issue of certifying ETC status for a wireless
16 carrier. Do you believe that this is significant?

17 A. I do. As the Commission is dealing with the issues in this type of proceeding for
18 the first time, the Commission should take care to fully and carefully weigh the
19 issues at hand, as this case will likely provide some precedent for how the
20 Commission will deal with future cases addressing these issues. In this regard, it
21 is important that the Commission carefully recognize the different issues that are
22 presented to it. For example, the Commission needs to recognize that the
23 statutory requirements related to rural and non-rural companies are different and

1 that its conclusions regarding ETC status may be different in the non-rural area
2 served by Southwestern Bell Telephone Company as opposed to the rural area
3 served by Citizens and Alma. Secondly, the Commission will deal to some
4 degree with the question of ETC status related to partial rural study areas. There
5 are some fairly unique factual situations in this case in that Sprint and Mid-
6 Missouri Telephone Company, both owners of rural telephone company study
7 areas, but both also closely affiliated with wireless providers, are not opposing
8 granting ETC status for a part of their study areas. This is a fairly unique
9 situation, in my experience, and should not be used to set precedent for other ETC
10 applications. MMC recognized the sensitivity of this issue by not requesting ETC
11 status for parts of the rural study areas of several other rural ILECs within their
12 license area.

13
14 Q. Do Citizens and Alma acknowledge that MMC's Petition requests ETC status for
15 all of their study areas?

16 A. Yes. Consequently the issue of treatment of partial study areas is not an issue of
17 direct concern to them in this case. It is an issue of considerable concern to them
18 and to other rural telephone companies in the state should an ETC applicant
19 request ETC status in only part of their study area.

20
21 Q. You previously cited the three major criteria that the Commission must address in
22 regard to the determination of granting ETC status in a rural study area. Do you
23 believe that MMC has demonstrated that it meets all of these criteria?

1 A. I do not. I particularly do not believe they have demonstrated that the granting of
2 their Petition will be in the public interest.

3
4 Q. Before discussing each of these criteria, can you comment on the purpose of the
5 Federal Universal Service Funds that MMC would be eligible for if it is granted
6 ETC status?

7 A. Yes. In the Act, Congress was focused on two major purposes: 1) increasing
8 competition in telecommunications services, and 2) increasing Universal Service
9 availability. The Act defines the following Universal Service Principles in
10 Section 254(b):

11
12 (b) UNIVERSAL SERVICE PRINCIPLES.--The Joint Board and the
13 Commission shall base policies for the preservation and advancement of
14 universal service on the following principles:

15 (1) QUALITY AND RATES.--Quality services should be
16 available at just, reasonable, and affordable rates.

17 (2) ACCESS TO ADVANCED SERVICES.--Access to advanced
18 telecommunications and information services should be provided
19 in all regions of the Nation.

20 (3) ACCESS IN RURAL AND HIGH COST AREAS.--Consumers
21 in all regions of the Nation, including low-income consumers and
22 those in rural, insular, and high cost areas, should have access to
23 telecommunications and information services, including
24 interexchange services and advanced telecommunications and
25 information services, that are reasonably comparable to those
26 services provided in urban areas and that are available at rates that
27 are reasonably comparable to rates charged for similar services in
28 urban areas.

29 (4) EQUITABLE AND NONDISCRIMINATORY CONTRIBUTIONS.-
30 -All providers of telecommunications services should make an
31 equitable and nondiscriminatory contribution to the preservation
32 and advancement of universal service.

33 (5) SPECIFIC AND PREDICTABLE SUPPORT MECHANISMS.--
34 There should be specific, predictable and sufficient Federal and
35 State mechanisms to preserve and advance universal service.

1 (6) ACCESS TO ADVANCED TELECOMMUNICATIONS SERVICES
2 FOR SCHOOLS, HEALTH CARE, AND LIBRARIES.--Elementary and
3 secondary schools and classrooms, health care providers, and
4 libraries should have access to advanced telecommunications
5 services as described in subsection (h).

6 (7) ADDITIONAL PRINCIPLES.--Such other principles as the
7 Joint Board and the Commission determine are necessary and
8 appropriate for the protection of the public interest, convenience,
9 and necessity and are consistent with this Act.
10

11 Q. Did the FCC adopt any additional principles under 254(b)(7)?

12 A. Yes. It adopted the following additional principle in its Report and Order in CC
13 Docket No. 96-45, FCC 97-157 Issued May 8, 1997 (Para 47):

14 COMPETITIVE NEUTRALITY -- Universal service support mechanisms
15 and rules should be competitively neutral. In this context, competitive
16 neutrality means that universal service support mechanisms and rules
17 neither unfairly advantage nor disadvantage one provider over another,
18 and neither unfairly favor nor disfavor one technology over another.
19

20
21 Q. What is the relevance of these principles as adopted by Congress and the FCC in
22 relationship to the Petition of MMC for ETC status?

23 A. In evaluating the Petition of MMC for ETC status in the rural study areas where
24 MMC has requested such status, the Commission should use these criteria as a
25 guide in evaluating the public interest benefits of granting that status.
26

27 Q. One of the requirements for eligibility for ETC status is providing the services
28 required by the FCC in 47 C.F.R. § 54.101(a). What are your comments
29 regarding the provision of these services?

30 A. The services required by this section of the FCC rules are:

- 31 (1) Voice grade access to the public switched network
32 (2) Local usage

- (3) Dual tone multi-frequency signaling or its functional equivalent
- (4) Single-party service or its functional equivalent
- (5) Access to emergency services
- (6) Access to operator services
- (7) Access to interexchange service
- (8) Access to directory assistance
- (9) Toll limitation for qualifying low-income consumers

Although MMC's Petition for ETC status discusses each of these services and asserts that MMC is providing them, the manner in which several of these services are provided by MMC in comparison to the offerings by the Companies and Incumbent Local Exchange Carriers (ILECs) generally raises issues regarding whether they comport with the requirements of the Missouri Commission and how well the public interest will be served by granting ETC status to MMC. There are also issues raised regarding the competitive neutrality principle established by the FCC.

Q. Can you provide an example of the public interest issues that may be raised by the MMC offering of one of these services?

A. Yes. Let's take the offering of "local usage". As was correctly stated in MMC's Petition, while "local usage" is a required service offering, the FCC has never identified a required level of "local usage". In the wireline industry the vast majority of the companies in the nation, including the ILECs involved in MMC's Petition, offer unlimited local usage, both originating and terminating for a flat monthly rate. It appears that only one of MMC's offerings, the "Unlimited Zone" offering shown on page 5 of Attachment 1 to MMC witness Dawson's direct testimony offers unlimited local usage. All the other plans described by Mr.

1 Dawson have limited usage amounts with the minutes allowed heavily weighted
2 toward nights and weekends. If customers exceed those minute allowances, either
3 the daytime allowance, or the total, they pay \$0.40 to \$0.45 per minute for excess
4 local usage, either originating or terminating. Under the lowest priced "local"
5 plan, a customer could make or receive only one hour and 40 minutes of daytime
6 calls before they would start to pay \$0.45 per minute for any further minutes for
7 calls either made or received in the month. It does not, in my opinion, serve the
8 public interest to provide universal service support for that type of limited local
9 service.

10
11 Q. Can you discuss issues regarding access to interexchange services?

12 A. Yes. MMC's Petition states that, "MMC has a direct interconnection agreement
13 with an interexchange carrier ("IXC")."¹ The Terms Applicable to MyDigital
14 Rate Plans shown on Page 2 of Attachment 1 to Mr. Dawson's testimony state (in
15 very small print) that, "Long distance is pre-selected by MMC and cannot be
16 changed." Clearly MMC customers have access to only one unidentified
17 interexchange carrier.

18
19 Contrast this with the access to interexchange services offered by ILECs.
20 Pursuant to the Act, ILECs are required to offer dialing parity and under FCC
21 rules implementing dialing parity are required to offer each end user their choice
22 of all interexchange carriers that choose to serve the area either on a
23 presubscribed basis or on a code dialed before each call. If Congress and the FCC

1 felt that choice in interexchange carriers was so important to the public interest
2 that they required by legislation wireline ILECs to offer those choices, it would
3 not appear to be in the public interest to provide universal service support to a
4 wireless carrier who did not provide that choice.
5

6 Q. For a final example, let's turn to toll limitation service. Can you describe toll
7 limitation service?

8 A. Yes. The FCC rules require the provision of "Toll Control" (limitation on the
9 dollar amount of toll calls per month) or "Toll Blocking" (the blocking of all toll
10 calls) for customers qualifying for Lifeline and Linkup services. MMC's Petition
11 indicates that it will offer Toll Blocking to its customers.
12

13 Q. What, in your mind, was the intent of requiring the offering of toll
14 limitation/blocking service to Lifeline and Linkup customers?

15 A. I believe that the primary concern of the FCC was providing a way for low-
16 income customers qualifying for these services to assure that their cost for
17 telephone service would be limited to a relatively small amount and that they
18 could not incur large costs for toll service which could cause them to have their
19 local service disconnected.
20

21 Q. Does MMC witness Kurtis offer additional evidence as to how toll limitation
22 service will be offered by MMC?

¹ MMC Petition, p.7.

1 A. Yes. In Exhibit 2 to his Direct Testimony he provides the answer to a data
2 request submitted by the MPSC staff. The response of MMC states:

3 Lifeline service will be mobility-limited to the cell or cell sites serving the
4 lifeline subscriber's residence. MMC will enable a lifeline subscriber with
5 toll restrictions to place calls to telephone numbers that have a rate center
6 within the exchange boundary of the LEC that is certificated to provide
7 service to the subject residence.
8

9 Q. Does MMC witness Dawson provide further information regarding MMC's
10 Lifeline offering?

11 A. Yes. In Attachment 1 to his Direct Testimony, what I count as Page 14, he
12 provides the following information:

13 Lifeline provides a credit to eligible low-income subscribers for monthly
14 telephone charges. Eligible low-income subscribers will receive a reduction
15 of \$1.75 plus credit for the Federal Universal Service Fund charge on their
16 monthly cellular bill. The reduction applies to a single cellular line and the
17 qualifying subscribers will receive the following services: customer will be
18 allowed to make calls to their designated local NPA-NXX; customer will be
19 able to receive calls within the designated seven county service area; access to
20 emergency services; access to operator services. No security deposit is
21 required to initiate Lifeline services.
22

23 Q. Given the information provided by the MMC witnesses, can you provide what
24 you understand to be an example of how Lifeline would be offered?

25 A. Yes. According to the materials supplied by MMC witness Dawson in
26 Attachment 1 to his Direct Testimony, the lowest priced plan offered by MMC is
27 the 350 minute Local Plan with a monthly charge of \$19.95 per month. (See the
28 7th Page of Attachment 1) This is the plan that a low-income individual would
29 most likely want to choose as his/her Lifeline Plan, and let's assume that the
30 customer chooses toll restriction along with that plan. Based on Mr. Dawson's

1 testimony cited above, it would appear that the Lifeline customer would pay
2 \$18.20 for this service instead of \$19.95. However, for that price, the Lifeline
3 customer has some restrictions. Instead of having "free long distance", at least
4 within his minute allowance, he/she can now only call customers within his/her
5 home NPA-NXX and can apparently only receive calls from the seven county
6 area, rather from nationwide. In addition, according to Mr. Kurtis's data request
7 response, his/her phone will only work from the cell site or sites that cover his/her
8 home residence area. However, if the Lifeline customer has an unusual month in
9 which he/she makes, or receives, for example, 1,100 minutes of daytime calls
10 (1,000 over the daytime limit of 100 minutes), in addition to the \$18.20, the
11 customer would be billed \$0.45 per minute for 1,000 minutes over his/her call
12 allowance or \$450. Thus although there is a "toll restriction" on his/her service,
13 the customer may still find himself/herself in the position of having a very large
14 unexpected bill to pay that the "toll restriction" provision was intending to
15 prevent.

16
17 Q. Is there another MMC plan which would avoid this type of occurrence?

18 A. Yes. The MMC Lifeline customer could apparently subscribe to the Unlimited
19 Zone Plan normally offered for \$34.95. The lifeline customer with toll restriction
20 could subscribe to this plan for \$33.20 (\$1.75 less than the normal rate) and have
21 unlimited local usage. Apparently from Mr. Dawson's and Mr. Kurtis's
22 testimony, though, instead of getting "free long distance" calling throughout their
23 home area code, they would be restricted to making calls within their local NPA-

1 NXX. I would think the public interest benefit of providing Universal Service to
2 such a plan would be very minimal since the customer could obtain similar
3 service from Citizens for \$8.40 per month and from Alma for \$6.50.

4
5 Q. Do the FCC rules for required services discuss the price at which such services
6 are offered?

7 A. No, they do not, though the first principle in the Act related to Universal Service
8 which I quoted above states that "...quality service should be available at just,
9 reasonable and affordable rates." If one reviews the history of Universal Service,
10 a prime intent of providing USF funds is so that rates for local service can be
11 maintained at lower, affordable levels.

12
13 Q How does the Commission assure that the rates of Citizens and Alma are
14 maintained at just, reasonable, and affordable levels?

15 A. The Commission by state statute has the authority to review and establish the
16 rates of these companies, along with other rate-of-return regulated companies in
17 the state, to assure that they are "just, reasonable, and affordable". For Citizens
18 the local tariffed rate is \$8.40 for residence service. When combined with the
19 mandatory federal subscriber line charge (SLC) of \$6.50, a Citizens customer
20 would pay \$14.90 for local service. For Alma the tariffed rate for residence
21 service is \$6.50 which combined with the \$6.50 SLC would equate to a total
22 charge of \$13.00 for local service.

- 1 Q. Does the Commission have authority to regulate the rates of MMC?
- 2 A. No, both by federal and state statute, the Commission does not have authority to
3 regulate MMC's rates.
4
- 5 Q. What are the rates that MMC charges for "local" service?
- 6 A. Based on Attachment 1 to MMC witness Dawson's testimony, they offer various
7 residential service plans ranging from \$19.95 to \$64.95 per month.
8
- 9 Q. Does MMC intend that all these plans qualify for federal USF?
- 10 A. They have given no indication that they will be offering any stand alone universal
11 service plan. In addition, the representations by Mr. Kurtis in both his direct
12 testimony² and responses to the data requests indicates that all services offered by
13 MMC will be eligible for USF support.
14
- 15 Q. Has MMC given any indication that they would reduce any of their rates if they
16 are designated an ETC?
- 17 A. They have given no such indication in their Petition or testimony.
18
- 19 Q. Do you see a public interest benefit for providing USF for rates that are well
20 above the rate levels offered by the incumbent if the funds provided do not lead to
21 a reduction in the rates charged?

² Testimony of Michael K. Kurtis, Page 11, lines 20-21.

1 A. No. It does not seem that the public will benefit if public funds are provided to
2 MMC, but there is no reduction in the rates it is charging or there is no increase in
3 the infrastructure that is being provided.

4
5 Q. What level of federal USF support are Citizens and Alma currently receiving?

6 A. There are four different segments of federal USF support that Citizens and Alma
7 currently receive. These are high cost loop support (HCL), local switching
8 support (LSS), long-term support (LTS), and interstate common line support,
9 (ICLS). Based on the 1st Qtr, 2004 projected USF projections by the Universal
10 Service Administration Corporation (USAC), the companies would receive the
11 following levels of support per line:

Type of Support	Citizens	Alma
	Residence/Single Line Business	Residence/Single Line Business
HCL	\$16.62	\$ 7.97
LSS	\$ 6.73	\$ 7.04
LTS	\$ 5.20	\$ 3.94
ICLS	\$ 9.91	\$ 7.00
Total	\$38.46	\$25.95

13
14 These amounts would be portable to any competitive ETC that serves customers
15 in the areas served by the Companies.

16
17 Q. How much would MMC receive annually if it is designated an ETC by this
18 Commission?

1 A. MMC has indicated to Citizens and Alma that they serve 927 and 277 customers
2 respectively in the Companies' exchanges. Thus, in the service areas of these two
3 companies, MMC would, as an ETC, be eligible to receive approximately
4 \$42,840 monthly (\$514,080 annually) in federal USF funds. It would also be
5 eligible to receive further funds in other study areas where it has sought ETC
6 status. Based upon the USAC 1st quarter 2004 reporting information, MMC
7 would receive \$145,931 monthly (\$1,751,721 annually) in USF support, in total,
8 in its Missouri service area.

9
10 Q. Has MMC provided specific plans as to how this money will be used, if received?

11 A. Their answers are somewhat vague and contradictory. For example, MMC
12 indicates on page 11 of Mr. Kurtis' testimony that, "MMC will provide the nine
13 services listed above using its existing network infrastructure ---- i.e. the same
14 antenna, cell-site, tower, trunking, mobile switching and interconnection facilities
15 that MMC currently uses to provide cellular services to its existing subscribers.
16 [emphasis added]" This suggests they have no need to increase their facilities in
17 order to provide the required services. The result is simply that MMC will
18 receive USF support for services that it is already providing as a CMRS provider
19 without incurring any additional costs for providing this service.

20
21 Mr. Kurtis in his direct testimony states the following:

22 MMC is committed to extending its existing cellular network into the remote
23 and high-cost regions of its proposed ETC area. The high-cost support that

1 MMC will receive once its Application is granted will allow it to fulfill this
2 commitment.³
3

4 This seems to indicate that MMC will be expanding its facilities if ETC status is
5 granted. However, in response to a data request submitted by Citizens, such an
6 expansion appears much less certain. Attached as Schedule RCS-1 is a copy of
7 MMC's response to Citizens' Data Request #16. Citizens requested that MMC
8 provide, "...specific plans for infrastructure improvement...". MMC's reply is a
9 very general response saying they will comply with the law. Since MMC
10 provided no specific plans, the only reasonable inference from this response is
11 that MMC has no "specific plans" for infrastructure improvement.
12

13 Q. How does MMC indicate they will use the additional funds received from USF
14 should they be designated an ETC?

15 A. They state in the data request response that is Schedule RCS-1 that the funds will
16 be used to "...provide, maintain and upgrade facilities and services for which the
17 support is intended." Since they do not appear to have any intention of lowering
18 rates to their end users and no specific plans for upgrading their infrastructure, I
19 infer that the USF funds will be used as they indicate, but that the funds that they
20 currently receive from their operations for those purposes will be used to increase
21 the profits of their stockholders.
22

23 Q. What does MMC indicate as the public interest benefit that will come from their
24 being designated an ETC and receiving USF funds?

³ Direct Testimony of Mechael K. Kurtis, page 12, lines 14-16.

1 A. MMC witness Kurtis addresses this issue on Page 13 of his testimony where he
2 states, "Designating MMC as an ETC will make it easier for customers in rural
3 Missouri to choose telecommunications service based on pricing, service quality,
4 customer service and service availability." In its Petition, MMC states on Page 14
5 that:

6 The FCC has long-recognized that promoting competition in specific
7 telecommunications service markets has multiple public interest benefits (e.g.,
8 cost-based pricing, higher quality and more innovative services, increase
9 consumer choice and a decreased need for regulatory oversight)."

10
11 The further discussion on Pages 14 and 15 of the Petition cite various FCC
12 decisions that have granted ETC status to certain entities because it will promote
13 competition.

14
15 Q. Do you think that Congress intended that ETC designations be based solely on the
16 public benefits of providing competition in rural areas?

17 A. I don't believe so. The very application of a competitive ETC inherently includes
18 the establishment of competition. If that was the only benefit that Congress had
19 intended the states to consider, there would have been no need for a public
20 interest determination for rural study areas. They could have used the word
21 "shall" rather than "may" in instructing state commissions regarding granting
22 ETC status in rural study areas. In spite of the FCC decisions cited by MMC, I
23 believe that Congress intended that states look beyond the "benefits" of
24 competition in making the public interest judgment regarding ETC status in rural
25 areas.

1 Q. Is increased competition sufficient by itself to justify the designation of an
2 additional ETC in a rural area?

3 A. No. First, the introduction of a competitor into a rural environment does not
4 necessarily lead to lower costs or higher quality service for consumers. A high-
5 cost market, by definition, is still high-cost even after the introduction of
6 competition. The primary reason the ILECs are eligible to receive funding from
7 the federal USF is that they are providing service in geographic areas where it is
8 not economically feasible to serve at reasonable rates. With the introduction of a
9 competitive ETC, the only difference is that the market has to support multiple
10 entrants with limited financial resources. Since costs of a telecommunications
11 network are relatively fixed, the splitting of a rural market between two or more
12 providers generally causes the cost of service to increase for each of the providers.

13
14 Q. Is ETC status and the accompanying USF support necessary to draw MMC into
15 the markets where it seeks that status?

16 A. No. Based on data request responses received from MMC it appears that MMC
17 has been providing service in these areas since 1991, or for nearly 13 years.
18 Based on data available on the USAC web site, MMC lines in Citizens' study area
19 are about 22% of the ILEC lines and nearly 76% of the ILEC lines in the Alma
20 study area.⁴ That represents significant market penetration in both study areas.
21 The wireless network owned by MMC was built, and its customers were being
22 served, well before this request for ETC status. The granting of ETC status will

⁴ USAC website-1st Qtr, 2004 High Cost Loop Support, Appendix HC18.

1 not add any new providers of service in the affected study areas or likely result in
2 any new services or rate plans.

3
4 Q. Is there a lack of competition in the service areas of Citizens and Alma?

5 A. No. There are several additional CMRS providers that provide service in the
6 Citizens and Alma study areas. From a review of several web sites I found the
7 following information regarding other competitors in this area:

CMRS Provider	# of Plans Offered	Range of Rates
AT&T Wireless	10	\$19.90 - \$299.99
Cingular	32	\$19.99 - \$299.99
Nextel	16	\$49.99 - \$199.99
Sprint PCS	8	\$35.00 - \$115.00
T-Mobile	13	\$19.99 - \$129.99
Verizon Wireless	15	\$35.00 - \$300.00

8
9 There appears to be no lack of competition in this area currently, and it is most
10 unlikely that the granting of ETC status will increase the number of providers or
11 level of competition. Certainly, there is a great deal of competition and a wide
12 variety of plans and offerings without providing ETC money to MMC. A more
13 detailed review of these plans shows: 1) variations in the packages of minutes,
14 and the times of the day various services are offered; 2) a wide variety of
15 additional features; and 3) new services such as Blackberry, PDA services, data
16 and text services, and picture services. All these services are being offered
17 without the provision of Universal Service support.

1 Q. Are Citizens and Alma required to adhere to the service standards of the
2 Commission in Chapter 32 of the Commission's rules and the Service and Billing
3 Practices in Chapter 33 of the Commission's rules?

4 A. Yes. Citizens and Alma are required to follow these rules that have been adopted
5 by the Commission.
6

7 Q. Can you describe the types of standards that are in these rules?

8 A. Yes. Chapter 32 contains rules related to the provision of service to customers.
9 These rules include the requirement to provide directories and directory listings,
10 technical standards for the provision of service, customer commitment
11 requirements for installing service consistent with company commitments,
12 standards for responding to customer inquiries, and standards for completion of
13 calls on the network.
14

15 Chapter 33 contains rules regarding billing practices. These rules include
16 requirements to notify customers of the lowest cost service available at the time
17 the customer subscribes, requirements for the content of bills, customer deposit
18 practices, and practices for the discontinuance of service and resolving disputes
19 and complaints. They also contain specific provisions regarding the provision of
20 operator services, presubscription for long-distance service, and prepaid calling
21 services.
22

1 These rules, which have been developed over a period of years and are modified
2 periodically, contain provisions which the Commission has felt are necessary to
3 protect the public interest by establishing standards for such services.
4

5 Q. Are CMRS providers, such as MMC, subject to these rules?

6 A. Under the current provisions of the Missouri statutes it would appear they are not,
7 since CMRS providers are excluded from the definition of "telecommunications
8 carrier" in the state statute.
9

10 Q. Does MMC appear to have any intention of complying with these rules?

11 A. No, they do not. Attached as Schedule RCS-2 is the MMC response to Alma
12 Data Request #17 where MMC clearly indicates that it has never been subject to
13 these rules and that it is exempt from the Commission's jurisdiction pursuant to
14 Section 386.020(53)(c) RSMo2000.
15

16 Q. If the Commission felt such standards were important enough to incorporate into
17 formal rules for ILECs, is it likely that the lack of such rules for CMRS providers
18 will lead to a service provisioning that fills the public interest needs in these areas
19 at a level less than the service provided by the ILECs?

20 A. I would think so. The imposition of these service and billing requirements in
21 many cases imposes additional financial and administrative burdens on the ILECs
22 which the Commission believes are justified in order to give greater protection
23 and choice to consumers. Wireless carriers who do not have to meet these

1 requirements will likely not conform to these requirements found necessary for
2 the provision of telecommunications service and thus provide service that is less
3 likely to fulfill/advance the public interest.
4

5 Q. Does the imposition of tariffs, service standards, and other regulatory
6 requirements on ILECs to meet service and billing standards, while allowing
7 CMRS providers to avoid such requirements, lead to a USF system that is
8 "competitively neutral" as described by the USF principle adopted by the FCC?

9 A. I do not believe that it does and would recommend that the Commission take this
10 into account in its consideration of the public interest standard. Imposing
11 requirements such as providing directory listing and directories, emergency power
12 backup, specific deposit and disconnection procedures, service installation
13 criteria, and call completion standards create specific additional costs on ILECs.
14 It shouldn't be considered competitively neutral to provide CMRS providers the
15 benefits of USF when they are not required to meet the same service standards as
16 the ILECs nor incur the same costs to meet these service standards.
17

18 Q. Are the terms of service provision for MMC similar to those that ILECs are
19 required to provide through the tariff approval process?

20 A. No. There are differences that are not necessarily to the subscribers' benefit. For
21 example, MMC's terms of service (Attachment 2 to MMC witness Dawson's
22 Direct Testimony-2d page) indicate that MMC requires a two-year service
23 contract, and that termination of the contract before the end of two years will

1 require a termination charge of \$200. The Commission requires ILECs to provide
2 service on a monthly service offering basis with no termination fee or penalty.

3
4 Q. If MMC is granted ETC status, what will be the basis of its support?

5 A. Under current FCC rules, MMC will receive federal USF support based on the
6 identical amount per line that the ILEC receives. An incumbent rural carrier
7 receives support based on its actual embedded costs of providing the service and
8 making investments in its area. This support is based on annual cost filings
9 prepared by the incumbent carrier to reflect its costs and submitted to the
10 Universal Service Administration Corporation ("USAC"). These study results are
11 verified by both USAC and NECA (the National Exchange Carrier Association).
12 A competitive ETC, on the other hand, merely reports the number of customers it
13 is serving in its designated ETC area and then receives the same amount of
14 support per line as the incumbent without verification of its costs or the
15 underlying need for support being made by any regulatory or administrative
16 entity. There is certainly a question as to whether this approach meets the
17 competitive neutrality principle.

18
19 Q. Does granting ETC status to a competitor provide a disincentive for an incumbent
20 to make additional investments?

21 A. Unfortunately, it may. Under the current environment, when there is more than
22 one ETC, an incumbent that makes the decision to make more investment in
23 telecommunications infrastructure must take into consideration that the increased

1 investment it makes, resulting in additional USF support to the incumbent, will
2 result in more USF support to the competitive ETC. The critical difference is that
3 the incumbent will be getting the funding to recover a portion of the actual cost of
4 the investment already made, while the competitor gets the money as a windfall
5 without any tie to additional investment. In addition, given that the incumbent no
6 longer has any assurance that high cost customers will remain with the company
7 long enough for the incumbent to recover an investment that typically spans 20-25
8 years (cable and wire plant), there is a disincentive to invest in these longer-term
9 investments. Therefore, the incumbent faces a double jeopardy situation where its
10 investments yield additional support for its competitor who is not faced with the
11 same costs and the risk associated with recovering the investment is magnified.
12 This does provide the incumbent a disincentive to invest in additional
13 infrastructure.

14
15 Q. On a broad national policy basis, what are some of the implications of the
16 Commission granting ETC status to MMC?

17 A. The granting of ETC status to wireless carriers is causing a dramatic growth in the
18 size of the federal USF. Between the 4th quarter of 2001 and the 4th quarter of
19 2003, the amount grew from approximately \$10.8 million annually to
20 approximately \$250 million annually. In a Joint Board proceeding addressing this
21 issue, comments of the National Association of State Utility Consumer Advocates
22 stated:

23 "Under the current ETC designation rules, in the near future there will
24 likely be a sharp upward curve in the growth of the high-cost fund

1 related to the issues being examined here. A substantial portion of this
2 growth is a result of additional funds needed to support multiple lines
3 per customer and to support lines provided by new competitive eligible
4 telecommunications carriers ("CETCs"), mostly wireless ETCs.

5
6 and:

7 The current and anticipated rate of growth in fund requirements needed
8 to support additional lines suggests that the current support mechanisms
9 will be strained unless the Commission makes substantial changes to
10 the ETC designation rules."
11

12 There clearly is concern that growth in the federal fund resulting from the large
13 increase in wireless ETC designations ultimately may jeopardize the sustainability
14 of the USF fund for all providers.
15

16 Q. What are the implications of granting ETC status to MCC in relationship to the
17 current regulatory scheme imposed on the ILECs?

18 A. The current regulatory scheme imposed on the ILECs is based on the assumption
19 that the ILECs are monopoly providers of service and that regulation of the
20 services and prices of the ILEC offerings are necessary to protect the public
21 because of the lack of competition. When ETC status is granted to a competitive
22 carrier such as MMC, the Commission is essentially determining that there is
23 *more than one provider in the designated areas that is fully capable and willing to*
24 *provide basic telecommunications services throughout these areas and that will be*
25 *publicly supported in doing so. Once this occurs, the rationale for imposing*
26 *regulation on the ILECs is no longer valid and the whole purpose of regulation of*
27 *the ILEC by the Commission is subject to question. If regulation is to continue,*
28 *the incumbent should be regulated on the same basis as the competitor. This*

1 could occur in one of three ways. Regulation of the ILEC could be relaxed or
2 eliminated; the wireless entrant could be regulated to the same extent the ILEC is
3 currently, or some middle ground of lessened regulation could be applied to both.
4 While this case is not the appropriate forum to address all those issues, the
5 Commission should be aware that its decision in this case will raise those types of
6 fundamental questions which may need to be addressed should it decide to grant
7 ETC status to MMC.

8
9 Q. Do the Companies believe the public interest will be served by granting MMC the
10 ETC status that it has requested in the study areas of Citizens and Alma?

11 A. No. To the contrary, the Companies believe:

12 1) That MMC's primary claimed public benefit of granting it ETC status,
13 increased and enhanced competition, will not be realized from granting ETC
14 status because competition from MMC and other CMRS providers is already a
15 reality without the necessity of providing USF funds.

16 2) That MMC has failed to demonstrate that granting it ETC designation in
17 the rural areas it proposes will enhance universal service or the principles of
18 universal service outlined in the Act and by the FCC.

19 3) That granting ETC status to MMC will not provide end user customers
20 any universal service benefits that they do not currently have.

21 4) That granting ETC status to MMC in view of the substantially different
22 regulatory requirements imposed on incumbents, such as providing equal access,

1 submitting to rate regulation, submitting to service and billing standards, would
2 not comport with the competitively neutral principle of universal service.

3
4 Q. What is the Companies' recommendation to the Commission in this case?

5 A. The Companies recommend that the Commission deny the Petition of MMC to
6 receive ETC status in the study areas of Citizens and Alma.

7
8 Q. Do you have any concluding remarks?

9 A. Local rates of Missouri's high cost rural companies are heavily dependant on the
10 recovery through federal USF finds of a significant portion of the cost of
11 providing service. In fact, because of the fixed nature of telecommunications
12 infrastructure investments, the cost of service generally increases for all market
13 participants when competitors enter the market. The Commission should give
14 careful consideration as to whether it is in the public interest to provide USF
15 support to multiple providers in the high cost rural areas of the State. The
16 combination of longer distances and lower density that make rural areas costly to
17 serve do not decrease when competition is introduced. The Commission should
18 consider carefully whether granting MMC ETC status will enhance universal
19 service before granting that status.

20
21 Q. Does this conclude your rebuttal testimony?

22 A. Yes it does.

(16) What are MMC's specific plans for infrastructure improvement and what new technologies does MMC intend to introduce in the rural markets if it obtains ETC status? At what projected cost?

If it obtains ETC status, MMC will use any high cost Universal Service Fund support in accordance with Section 254(e) of the Communications Act and the *Ninth Report & Order And Eighteenth Order On Reconsideration* in CC Docket No. 96-45, 18 CR 710, 14 FCC Rcd 20432 (1999) at para. 97. Accordingly, MMC's high cost support will be used only to provide, maintain and upgrade facilities and services for which the support is intended.

Schedule RCS-1

(17) Is MMC willing to be subject to the same quality of service standards as are required by the Missouri Public Service Commission of Alma Telephone Company? If not, why not?

MMC will comply with any lawfully promulgated rule or regulation of the Missouri Public Service Commission (the "Commission") that applies to all similarly situated Commercial Mobile Radio Service ("CMRS") carriers. Since commencing service in Missouri in 1991, MMC has never been subject to the referenced incumbent local exchange carrier ("ILEC") quality of service standards, which are imposed on Alma. Section 386.020(53)(c) RSMo2000 exempts from the Commission's jurisdiction the offering of radio communications services (including CMRS) when provided pursuant to an FCC license.

Schedule RCS-2