

Exhibit No.	
Issue:	<u>Application for ETC Designation</u>
Witness:	Glenn H. Brown
Sponsoring Party:	Spectra Communications Group, LLC d/b/a CenturyTel and CenturyTel of Missouri, LLC
Type of Exhibit:	Surrebuttal Testimony
Case No:	TO-2005-0384
Date:	October 3, 2005

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

In the Matter of the Application of USCOC of	)	
Greater Missouri, LLC for Designation as an	)	
Eligible Telecommunications Carrier	)	Case No. TO-2005-0384
Pursuant to the Telecommunications Act of	)	
1996	)	

**SURREBUTTAL TESTIMONY OF GLENN H. BROWN  
ON BEHALF OF SPECTRA COMMUNICATIONS GROUP, LLC, d/b/a CENTURYTEL  
AND CENTURYTEL OF MISSOURI, LLC**

**October 3, 2005**

1 **Q: Please state your name and business address.**

2 A: My name is Glenn H. Brown, and my business address is 55 Cathedral Rock  
3 Drive, Suite 32, Sedona, Arizona 86351.

4 **Q: Have you previously filed testimony in this proceeding?**

5 A. Yes. On September 12, 2005 I filed rebuttal testimony responding to the  
6 Application of US Cellular for ETC status in the State of Missouri, as well as the  
7 testimony filed by Kevin Lowell, Don J. Wood and Nick Wright on July 12, 2005 in  
8 support of this Application.

9 **Q: What is the purpose of your surrebuttal testimony?**

10 A: The purpose of my surrebuttal testimony is to respond to the rebuttal testimony  
11 filed on September 12, 2005 by Adam McKinnie on behalf of the Commission Staff, and  
12 Barbara Meisenheimer on behalf of the Office of the Public Counsel (OPC).

13 **Q: Could you please summarize your surrebuttal testimony.**

14 A: Both Mr. McKinnie and Ms. Meisenheimer outline useful criteria for the  
15 Commission's analysis of an application for ETC status. In particular, it is notable that  
16 both Mr. McKinnie and Ms. Meisenheimer have chosen to utilize the criteria identified  
17 by the FCC in its March 17, 2005 *ETC designation Order*<sup>1</sup> for determining whether US  
18 Cellular meets the public interest test necessary for granting ETC status. Both Mr.  
19 McKinnie and Ms. Meisenheimer find that US Cellular's Application in this proceeding  
20 has significant public interest shortfalls. Ms. Meisenheimer states in her testimony that  
21 Public Counsel "[does] not support the Application in its present form."<sup>2</sup> Based on his

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<sup>1</sup> In the Matter of Federal-State Joint Board on Universal Service, CC Docket 96-45, Report and Order, FCC 05-46, released March 17, 2005.

<sup>2</sup> Meisenheimer testimony at page 3.

1 analysis Mr. McKinnie finds that US Cellular has failed to meet all of the minimum  
2 criteria established by the FCC in this *Order*. Rather than recommend that the  
3 Commission deny US Cellular’s application until these criteria have been met, however,  
4 Mr. McKinnie recommends that the Commission conditionally approve ETC status for  
5 US Cellular subject to an annual reporting requirement. Spectra and CenturyTel believe  
6 that such conditional approval could set a dangerous precedent and would not be in the  
7 public interest.

8 **Q: Why do Spectra and CenturyTel believe that conditional approval of ETC**  
9 **status for a carrier that has not met all of the minimum public interest criteria for**  
10 **ETC designation would be wrong?**

11 A. Spectra and CenturyTel believe that it is critical that the Commission establish  
12 and enforce high standards for ETC designation. It is also significant that this proceeding  
13 is likely to be one of the first of many cases where the Commission will be asked to  
14 determine if a request for ETC status for a given carrier will be in the public interest. It is  
15 important that the criteria be fair, rigorous and uniformly applied. In my testimony, I  
16 have also recommended that the Commission incorporate the minimum ETC designation  
17 requirements adopted by the FCC in the *ETC Designation Order*. As described more  
18 fully in the *Order* “these requirements create a more rigorous ETC designation process,  
19 and their application by the FCC and state Commissions will improve the long-term  
20 sustainability of the universal service fund.”<sup>3</sup> As described in my earlier testimony, as  
21 well as in the *ETC Designation Order*, it is important that the applicant demonstrate that  
22 its proposed use of universal service funds will bring high-quality signal coverage

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<sup>3</sup> ETC Designation Order at paragraph 2.

1 throughout the service area, and that the increased public benefits will exceed public  
2 costs that will be created. The Commission's Order in this proceeding should set a high  
3 standard for ETC qualification, and be uniformly applied to all other applications for  
4 ETC status that follow. Spectra and CenturyTel believe that approval of an ETC  
5 application based upon the minimal public interest showing that US Cellular has made in  
6 this proceeding would set a dangerous precedent which the Commission should avoid.

7 **Q: Do Mr. McKinnie and Ms. Meisenheimer make other recommendations**  
8 **regarding the standards for ETC designation?**

9 A: Yes. Both Mr. McKinnie and Ms. Meisenheimer recommend that the  
10 Commission establish state specific criteria regarding consumer protection and service  
11 quality issues. They recommend such criteria be established through a further  
12 rulemaking proceeding. Spectra and CenturyTel agree that such criteria can be extremely  
13 useful in assuring that Missouri consumers are appropriately protected. Our companies  
14 are subject to rigorous service quality rules and standards, and the principle of  
15 competitive neutrality strongly suggests the development of comparable, technology-  
16 specific, rules to be applied to wireless carriers that receive public funding. Again,  
17 however, we believe that such rules should be established concurrently with the initial  
18 ETC designations so that such rules and standards can be equally applied to all applicants  
19 for ETC status.

20 **Q: Could you describe how Mr. McKinnie evaluates US Cellular's Application**  
21 **and testimony against the minimum criteria in the FCC's *ETC Designation Order*?**

1 A: The FCC establishes five basic criteria for evaluation. Following is a list of these  
2 criteria and Mr. McKinnie's evaluation of US Cellular's Application and testimony  
3 against each:

4 1. Provide a five-year plan demonstrating how high-cost universal service support  
5 will be used to improve its coverage, service quality or capacity in every wire  
6 center for which it seeks designation and expects to receive universal service  
7 support. – **No. US Cellular: 1) Does not break down how high-cost support  
8 would be used to improve its coverage, service quality, or capacity in every  
9 wire center where US Cellular requests ETC designation; 2) Fails to provide  
10 a five-year build out plan for the use of potential USF monies; and 3) there  
11 will be wire centers where there will be no signal coverage before or after a  
12 potential US Cellular ETC designation.**<sup>4</sup>

13 2. Demonstrate its ability to remain functional in emergency situations. – **Yes**  
14 3. Demonstrate that it will satisfy consumer protection and service quality standards.  
15 – **Yes, but Staff recommends that the Commission condition approval US  
16 Cellular abiding by the CTIA code and that the Commission address  
17 additional quality of service concerns in a rulemaking procedure.**

18 4. Offer local usage plans comparable to those offered by the ILEC in the areas for  
19 which it seeks designation. – **Yes**

20 5. Acknowledge that it may be required to provide equal access if all other ETCs in  
21 the designated service area relinquish their designation. – **Yes**

22 **Q. How does Mr. McKinnie's evaluation against these criteria compare to your  
23 analysis?**

24 A: As described on pages 33 through 37 of my testimony, I evaluated US Cellular's  
25 application as follows:

26 1. Provide a five-year plan demonstrating how high-cost universal service support  
27 will be used to improve its coverage, service quality or capacity in every wire  
28 center for which it seeks designation and expects to receive universal service  
29 support. – **The US Cellular application totally fails to meet any of these  
30 requirements.**

31 2. Demonstrate its ability to remain functional in emergency situations. –  
32 **Commission must determine if reliability measures are sufficient**

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<sup>4</sup> McKinnie testimony pages 6-8.

- 1 3. Demonstrate that it will satisfy consumer protection and service quality standards.  
2 – **US Cellular has indicated acceptance of the CTIA Code**
- 3 4. Offer local usage plans comparable to those offered by the ILEC in the areas for  
4 which it seeks designation. – **No**
- 5 5. Acknowledge that it may be required to provide equal access if all other ETCs in  
6 the designated service area relinquish their designation. - **Yes**

7 **Q. Why do you believe that US Cellular has failed to meet the local usage**  
8 **standard?**

9 A: Spectra and CenturyTel offer basic local service plans that provide an unlimited  
10 amount of local calling over a defined local calling area. In order to meet the  
11 “comparability” standard in Spectra and CenturyTel’s service areas, any offering for  
12 which US Cellular seeks to receive high-cost universal service support must likewise  
13 offer unlimited local calling.

14 **Q. On page 8 of his testimony, Mr. McKinnie states that even though “it does**  
15 **appear there will be wire centers where there will be no signal coverage before or**  
16 **after a potential ETC designation,” that “Staff recommends granting US Cellular**  
17 **ETC status for all requested wire centers for the purpose of administrative**  
18 **simplicity.” Do you agree with Mr. McKinnie’s recommendation?**

19 A. No. In explaining his conclusion, Mr. McKinnie states “It follows that if US  
20 Cellular does not have customers in an area, US Cellular would not receive high cost  
21 support for those areas with no US Cellular customers.” The facts suggest that this is not  
22 true. Under current FCC rules, support is paid based on the wireless customer’s billing  
23 address. Some consumers have wireless service for use when they are on the road  
24 traveling, doing business, shopping or whatever, even though they may not receive  
25 wireless signal coverage at their place of residence. US Cellular admits as much in

1 response to a Staff data request.<sup>5</sup> By granting ETC status in areas where an applicant  
2 currently does not provide service, and has expressed no commitment to use high-cost  
3 funds to construct facilities to provide service, a wireless carrier would be receiving high-  
4 cost payments without providing the high-cost service. Worse, as I describe on pages 49-  
5 50 of my rebuttal testimony, providing high-cost support without also requiring an  
6 enforceable commitment to use those funds to expand signal coverage into currently  
7 unserved high-cost areas could actually produce the opposite result of discouraging  
8 investment in such areas. High-cost universal service support funds are a scarce public  
9 resource which must be used to produce maximum public benefit. The five-year plan  
10 provides an ETC applicant with ample opportunity to state how they intend to use the  
11 high-cost funding that they request. If US Cellular is not willing to commit to invest  
12 funds to improve signal quality in every wire center for which it requests funding, then its  
13 application should be denied.

14 **Q. What other criteria has Mr. McKinnie proposed?**

15 A: On page 22 of his testimony, Mr. McKinnie recommends that the Commission  
16 place the following requirements on US Cellular as conditions of receiving ETC status:

- 17 1. US Cellular shall follow the CTIA Code.
- 18 2. US Cellular shall provide annual updates to the Commission (or Staff) as  
19 described in paragraph 69 of the FCC *ETC Designation Order*.
- 20 3. US Cellular shall not self-certify to the Universal Service Administrative  
21 Company (USAC), but shall comply with the Commission's annual certification  
22 process.

23 **Q: Does CenturyTel and Spectra agree with these proposals?**

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<sup>5</sup> See response to Staff Data Request 0003(2). For convenience, I have attached a copy of this Data Request response as Schedule GHB-10 to my surrebuttal testimony.

1 A: Yes. The criteria specified in the ETC Designation Order are clearly stated to be  
2 minimum criteria. The Commission can and should add additional criteria that it believes  
3 are necessary to protect the public interest, and to assure quality services for Missouri  
4 consumers. Later in my testimony I also address additional criteria recommended by Ms.  
5 Meisenheimer that should be applied if the Commission chooses to grant ETC status. As  
6 described more fully in my rebuttal testimony, however, it is the position of CenturyTel  
7 and Spectra that US Cellular’s Application falls so far short of the minimum ETC  
8 Designation guidelines that we believe that ETC status should not be granted based on  
9 the record generated in this proceeding.

10 **Q. Did the FCC limit the application of the minimum ETC qualification criteria**  
11 **to only wireless carriers?**

12 A. No. The *ETC Designation Order* specifically clarified that the ETC designation  
13 framework applies to any type of common carrier seeking an ETC designation, including  
14 wireless and wireline ETC applicants.<sup>6</sup> The FCC also encourages state commissions to  
15 require ETC applicants to meet these same requirements and to conduct the same public  
16 interest analysis outlined in the *ETC Designation Order* to all ETC applicant’s in a  
17 manner “consistent with the principle that universal service support mechanisms and  
18 rules be competitively neutral.”<sup>7</sup>

19 **Q: What shortcomings has Ms. Meisenheimer found in US Cellular’s**  
20 **application?**

21 Among other things, Ms. Meisenheimer’s testimony states:

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<sup>6</sup> *Id* at paragraph 17.

<sup>7</sup> *Id* at paragraph 19.



- 1 • The Application is incomplete and lacks a number of fundamental consumer  
2 protections;<sup>8</sup>
- 3 • The Company has provided incomplete information on its planned offerings and  
4 future expansion plans for Missouri;<sup>9</sup>
- 5 • The Company has not provided a full description of the terms and conditions  
6 associated with the Lifeline and Link Up services it intends to offer if it receives  
7 ETC status.<sup>10</sup>

8 **Q: What other criteria has Ms. Meisenheimer proposed?**

9 A: Beginning on page 5 of her testimony Ms. Meisenheimer describes the following  
10 additional conditions:

- 11 1. Adhere to the requirements established by the FCC for carriers certified under  
12 214(e)(6) including but not limited to the submission of a five-year plan detailing  
13 specifically how it intends to use USF support to expand and enhance the  
14 availability of supported services in each geographic area for which it receives  
15 support;
- 16 2. Adhere to each of the annual reporting requirements established by the FCC for  
17 ETCs designated under section 214(e)(6);
- 18 3. File and maintain with the Commission a current copy of service area maps, a list  
19 of the local telephone exchanges in which service is available and an illustrative  
20 copy of customer service agreements;
- 21 4. Waive any equipment change fees for Lifeline customers;
- 22 5. Provide service and waive all toll and roaming charges on calls to any telephone  
23 exchange area for which the customers billing address would other wise have  
24 EAS if served by the incumbent carrier;
- 25 6. Develop an adequate Lifeline service offering comparable in price to the service  
26 offering of each ILEC's basic local service;
- 27 7. Refrain from increasing the rate or adversely altering the service elements of the  
28 approved Lifeline offerings without prior approval by the Commission;
- 29 8. Inform prospective Lifeline customers of the price of the lowest cost handset  
30 available;

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<sup>8</sup> Meisenheimer testimony at page 3.

<sup>9</sup> *Id.*

<sup>10</sup> *Id* at page 16.

- 1 9. Act as a “carrier of last resort” throughout the requested service territory.
- 2 10. Disclose all its current resale agreements that may be used as an additional  
3 method of serving customers in areas where the customers have access to  
4 telephone service but the Company is unable to provide facilities-based service.  
5 To the extent that the Commission determines that the current resale agreements  
6 are inadequate to cover gaps in the Company’s coverage, the company should be  
7 required to seek such agreements and report on its progress to the Commission as  
8 an element of its annual reporting requirements.

9 **Q: What is Spectra and CenturyTel’s reaction to her additional proposed**  
10 **criteria?**

11 A: With one possible exception, Spectra and CenturyTel support the additional  
12 criteria recommended by Ms. Meisenheimer. We are particularly pleased that OPC has  
13 recommended that Carrier of Last Resort obligations be included in the proposed  
14 requirements. One of the primary purposes of universal service funding is to encourage  
15 investment in telecommunications infrastructure in areas that would otherwise be  
16 uneconomical to serve. By requiring prospective ETC applicants to commit to Carrier of  
17 Last Resort obligations, the Commission would be assured that only carriers with a  
18 sincere desire and demonstrated commitment to build facilities to serve throughout the  
19 entire service area would receive high-cost funding. The five-year buildout plan would  
20 serve as a litmus test and tracking tool for this commitment. It would assure that carriers  
21 that only seek to serve the lowest-cost portions of the service area are not eligible for  
22 high-cost funding.

23 **Q: What is CenturyTel’s one possible exceptions to Ms. Meisenheimer’s list?**

24 A: The one possible exception is the encouragement of resale as means for a carrier  
25 to serve throughout the territory. It is true that under Section 214(e) of the 1996 Act a  
26 carrier is allowed to use resale of another carrier’s facilities and receive universal service

1 support, so long as it is in combination with use of the carrier's own facilities.<sup>11</sup> While  
2 resale in combination with facility-based services constitutes a technical compliance with  
3 the minimum requirements of 214(e), Spectra and CenturyTel believe that excessive  
4 reliance on resale should be considered a negative factor in the public interest analysis  
5 that is also necessary when ETC status is requested in the service area of a rural  
6 telephone company. As discussed above, one of the primary goals of universal service  
7 funding is to incent investment in rural telecommunications infrastructure. Particularly  
8 as multiple carriers, wireline and wireless, compete for a limited pool of high-cost  
9 support funds, preference should be given to those carriers who meet their ETC  
10 obligations through investment in rural telecommunications infrastructure. It would also  
11 seem inconsistent that a carrier be prepared to serve as a Carrier of Last Resort, yet rely  
12 on the facilities of another carrier to meet such obligations.

13 The issue of over reliance on resale to meet ETC obligations also raises the issue  
14 of how many ETCs a high-cost rural area can support. Many of the areas where US  
15 Cellular seeks ETC status, and where they have indicated no intention to construct  
16 facilities, are remote areas of Missouri where it is likely that no wireless coverage  
17 currently exists. On pages 36 – 37 of my testimony I discuss the important health and  
18 safety benefits that wireless coverage can provide, and on page 39 I quantify the  
19 percentage of roads that are covered by US Cellular's network. The question remains, if  
20 US Cellular is to rely on resale of wireless service to cover remote high-cost roads,  
21 whose service will they be reselling, and will the wireless carrier whose services they

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<sup>11</sup> In a recent Order the FCC granted conditional forbearance from the facilities requirement, but only for Lifeline support, not high-cost support. (See *In the Matter of Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C § 214(e)(1)(A) and 47 C.F.R. § 54.201(i)*, CC Docket 96-45, FCC 05-165, released September 8, 2005.)

1 resell be seeking ETC status for the construction of these facilities as well? This also  
2 raises two additional questions. First, assuming that the carrier that actually built the  
3 facilities is an ETC, which carrier (the facilities provider or the reseller or both) should  
4 receive the high-cost support? Second, the Commission needs to give careful  
5 consideration to how many ETCs, and in particular wireless ETCs, the consumers of  
6 Missouri need, or can afford, in remote high-cost areas of the state. By keeping the focus  
7 on facilities investment, and by requiring a prospective ETC applicant to demonstrate  
8 how high-cost support will be used to provide service throughout the ETC service area as  
9 required by the ETC Designation guidelines, the public interest will be served, and  
10 Missouri consumers will have the best assurance of increased public benefits  
11 commensurate with increased public costs.

12 **Q: Could you please summarize your conclusions?**

13 A: The public interest requires that the Commission establish and enforce high  
14 standards for ETC designation. Such standards should be rigorously enforced and  
15 uniformly applied. The Commission should adopt Mr. McKinnie's recommendation that  
16 the standards in the *ETC Designation Order* be applied by the Commission for ETC  
17 designation cases in the State of Missouri, as well as the other noted criteria supported by  
18 Mr. McKinnie and Ms. Meisenheimer. US Cellular's Application falls woefully short of  
19 meeting these standards. The Commission should deny ETC status and receipt of high-  
20 cost funding until such time that US Cellular has fully met all of the qualification criteria,  
21 particularly including a plan to provide high-quality wireless service throughout the  
22 proposed ETC service area. This will allow these criteria to function as an effective

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1 guarantee that carriers that are granted ETC status are fully committed to making the  
2 necessary investments to serve throughout the ETC serving area, that the universal  
3 service fund remains sustainable, that Missouri consumers receive increased benefits  
4 commensurate with increased costs, and that the public interest truly is preserved.

5 **Q: Does this conclude your surrebuttal testimony?**

6 A: Yes.

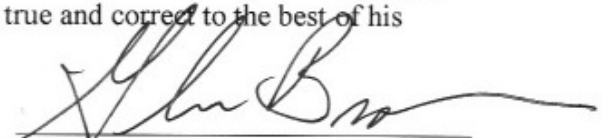
**BEFORE THE PUBLIC SERVICE COMMISSION  
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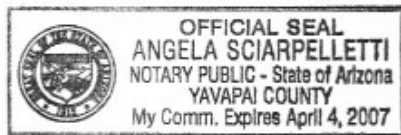
**AFFIDAVIT OF GLENN BROWN**

State of Arizona )  
) ss.  
County of Yavapai )

Glenn Brown, being of lawful age, on his oath states: that he has participated in the preparation of the foregoing Surrebuttal Testimony in question and answer form, consisting of 12 pages to be presented in the above case; that the answers in the foregoing Rebuttal Testimony were given by him; that he has knowledge of the matters set forth in such answers; and that such matters are true and correct to the best of his knowledge, information and belief.

  
\_\_\_\_\_  
Glenn Brown

Subscribed and sworn to before me this 30 day of September, 2005.



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

(seal)

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US Cellular's Resoponse to the Second Set of Data Requests From Missouri Public Service Commission Staff – DR-0003(2)

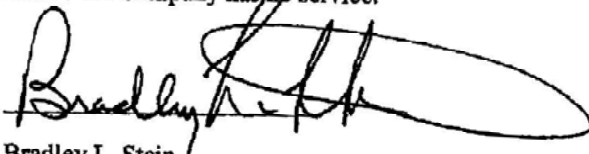
(2) Does U.S. Cellular currently have customers in the proposed ETC area in the instant application who live in areas where there is not currently U.S. Cellular service coverage? If so, how many customers are there that are in an area where there is not currently U.S. Cellular service coverage, and in what wire centers do they reside?

**Response:**

Yes. At the point of sale, U.S. Cellular runs a zip code database search to determine whether a prospective customer is within the company's coverage area for a given rate plan, and will advise the prospective customer if the database indicates they are outside of that area. As a result, U.S. Cellular generally does not sell a phone to consumers whose zip codes are shown as being in areas outside of the Company's coverage area or in an area with no coverage.

However, consumers may nonetheless opt for service even if signal coverage does not reach their home. For example, a real estate agent may have a need for a mobile phone to use on the road and at property site visits, or an individual may purchase a phone for peace of mind while commuting to and from work along stretches of country roads or rural highways. Although U.S. Cellular is committed to enhancing the reach and strength of its signal and to undertaking the steps it has enumerated in its Application to respond to requests for service to residential customers, it is important to note that the ability to use one's phone outside the home is a primary benefit of wireless service. It is a major reason why consumers choose wireless.

U.S. Cellular has no way to know with any precision how many customers live in an area where the Company has no service.

Signature:   
Name: Bradley L. Stein  
Position: Director, External Affairs