

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

In the Matter of the Application of)
i-wireless, LLC for Designation as)
an Eligible Telecommunications)
Carrier in the State of Missouri) Case No. TA-2011-0377

RESPONSE TO STAFF MOTION FOR INDEFINITE CONTINUANCE

COMES NOW i-wireless, LLC (“i-wireless” or the “Company”), by its undersigned counsel, and pursuant to 4 CSR 240-2.080, responds to Staff’s Motion for Indefinite Continuance in the docket referenced above:

1. On May 20, 2011, i-wireless filed its Application for Designation as an Eligible Telecommunications Carrier in the State of Missouri (“Application”). On May 24, 2011 i-wireless filed an amendment to its Application to supplement certain exhibits. i-wireless is not seeking any Missouri universal service fund support or support from the high-cost portion of the FUSF. Persons eligible for the substantial benefits of the low income portion of the FUSF have been alarmingly slow to take advantage of the program, resulting in a widely acknowledged failure to implement the salutary public policy behind the program. On the other hand, the high-cost portion of the FUSF has resulted in skyrocketing benefits, largely due to the benefits received by already prosperous rural ILECs and large incumbent RBOCs and ILECs. In spite of these facts, Staff has moved the Commission to indefinitely halt the designation of wireless ETCs, such as i-wireless, that seek access to the low-income subsidies.

2. Staff’s Motion paints with far too broad a brush. Staff would have reputable carriers, such as i-wireless, tarred by the alleged shortcomings of other carriers that are seeking ETC designation from the Commission. This request flies in the face of American notions of

due process and fundamental justice, not to mention this Commission's obligation to give timely consideration to applications for Commission authority. Granting Staff's Motion would eliminate a growing competitive element from the Missouri telecommunications market, to the detriment of customers seeking the best deal for their telecommunications dollars.

3. Staff's Motion sets forth no evidence that i-wireless is among those carriers implicated by the "ever-increasing volume of material concerning assertions of fraud and other illegal activities by some wireless and some wireless ETCs." (Staff Motion, ¶ 2).

4. The Attachments to Staff's Motion also raise no concerns about i-wireless. The letter from the New Jersey Board of Public Utilities reflects a policy decision not to process ETC applications because of the FCC's NPRM. There is nothing in its content concerning alleged fraud or, as the Staff transmittal email indicates, any "investigations." (Staff Motion, Attachment D). The South Carolina Staff motion to dismiss the ETC application of LifeConnex Telecom in no way implicates the practices of i-wireless. As the South Carolina motion indicates, LifeConnex is associated with Associated Telecommunications Management Services ("ATMS"), the entity which by all indications has spawned the investigations into wireless ETC practices. The motion sets forth a litany of ETC-related areas in which the application, testimony, and data request responses of LifeConnex are in conflict, a fact that quite properly put the South Carolina staff on notice that LifeConnex might not merit ETC designation. The motion notes in its prayer for relief that Staff requests dismissal of the LifeConnex application "for all the reasons set forth above." The South Carolina Staff's motion and recommendation are fact-based, not based on a policy recommendation that all ETC applications should be denied or put on hold. (Staff Motion, Attachment 2). The Florida Public Service Commission has also been investigating ATMS. The result of that investigation is addressed in Attachments 3 and 4 to Staff's Motion. It is significant that i-wireless is not listed among the ATMS companies.

(Staff Motion, Attachment 4, page 4). The ATMS companies may have engaged in fraudulent practices. There is no evidence that i-wireless has done so.

5. Staff proposes that all pending ETC applications be placed on indefinite hold, while Staff is formulating a proposal for a rule to govern ETC application investigations. Staff provides no schedule for making such a proposal, and of course the proposal would then have to follow the statutory rulemaking requirements. To predict when a rule would be in place is well nigh impossible. In the meantime companies against which no statutory or regulatory violations have been alleged are left to twist, slowly, in the wind. Justice this is not. Responsible regulation this is not.

6. The Company proposes, alternatively, that its application be processed and considered by the Commission. It is ready and able to respond, promptly and comprehensively, to any question Staff might raise. It is ready and able to come to Jefferson City at Staff's invitation for face-to-face meetings at which Staff may ask any question. i-wireless has no agenda save one: to obtain authorization from this Commission to take part in a federal program whose requirements it meets and which will allow it to provide competitive and subsidized services to less-fortunate Missourians.

7. All of the information mentioned by Staff in paragraph 3 of its Motion (disclosure of affiliates and contractors, listing of complaints to other Commissions, and penalty actions commenced by any other state), may be obtained by data request. There is simply no need for a complex and time-consuming rulemaking proceeding that will yield nothing more than what the Commission can already obtain by simply asking questions of applicants.

8. The Company acknowledges the correctness of Staff's legal arguments in paragraph 4 of its Motion, concerning the naming of new ETC designees and the time the Commission may take in reviewing ETC applications. But simply because the Commission does

not have to do something, does that mean that it still shouldn't do it? If the Commission were to stop at designating only two ETCs in the AT&T service area (one of which is, of course, AT&T), would those ETCs feel any competitive pressure to energetically market their services? Duopolies are not the desired result of the ETC designation process. Similarly, simply because the Commission can take years to process an ETC application, should the Commission take that long? Missouri customers deserve competitive choice -- the Commission has said that many times -- and timely consideration of ETC applications will give them that choice.

WHEREFORE, for the reasons stated above, i-wireless respectfully requests that the Commission deny Staff's Motion for Indefinite Continuance.

Respectfully submitted,

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ATTORNEYS FOR I-WIRELESS, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been mailed, hand-delivered, transmitted by facsimile, or electronically mailed to all counsel of record this 5th day of July, 2011.

/s/ Lisa A. Gilbreath

Lisa A. Gilbreath