BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of CenturyTel of Missouri, LLC's Request for Competitive Classification Pursuant to Section 392.245.5, RSMo (2005).	)))	Case No. IO-2006-0109

CONCURRING OPINION OF COMMISSIONER CONNIE MURRAY AND CHAIRMAN JEFF DAVIS

In its October 4, 2005 Order, the Commission approved CenturyTel of Missouri, LLC's ("CenturyTel") request for competitive classification in certain of its exchanges pursuant to § 392.245.5, RSMo.[1] While I voted in favor of the Order because I believe that CenturyTel provided ample evidence to support this conclusion, I write separately to note that certain language within the order was unnecessary and misleading.

In order to qualify for competitive classification in exchanges with business or residential customers, Section 392.245.5 requires:

> "Each telecommunications service offered to residential customers, other than exchange access service, of an incumbent local exchange telecommunications company regulated under this section shall be classified as competitive in any exchange in which at least two non-affiliated entities in addition to the incumbent local exchange company are providing basic local telecommunications service to residential customers within the exchange."[2]

The statute goes on to add that in each exchange, a non-affiliated wireless provider "shall be considered as an entity providing basic local telecommunications service" within an exchange, as long as only one such wireless provider is counted.[3]

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[1] Section 392.245, RSMo was amended by Senate Bill 237 (2005), to provide new standards for a finding of competitive classification.

[2] The same requirements apply to service offered to business customers.

[3] *See*, § 392.245.5(1), RSMo.

Therefore, if an exchange for which a carrier requests competitive classification has one wireline provider[4] and one wireless provider, the exchange must be declared competitive.

The Order in this case conducts a brief discussion about number porting and the availability of local numbers for customers of wireless providers in CenturyTel's markets. This discussion indicates to the reader that these issues are to be taken under consideration by the decision maker to determine whether a wireless provider can be counted as competition under the statute. Nothing in § 392.245.5 requires a wireless company to provide local numbers in the incumbent's exchange or port a wireline company's local exchange number in order to provide toll-free calling. The statute simply states that wireless companies "shall be considered as entities providing basic local telecommunications service". In other words, wireless companies are "deemed" to be providing such service.

In my opinion, the discussion in the Order is irrelevant to the decision and can only be viewed as "dicta". The Commission should refrain from adding language that

[4] There are additional requirements for a wireline provider, not applicable to wireless providers, to be counted as competition in § 392.245.5, but these are not relevant to the discussion.

could create confusion about whether we will be requiring more than is legally necessary to qualify for competitive classification.

Respectfully submitted,

Connie Murray, Commissioner

Joining in this concurrence.

Jeff Davis, Chairman

Dated at Jefferson City, Missouri
on this 6th day of October, 2005.