

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

In the Matter of Staff’s Review of the) File No. TW-2017-0078
Commission’s Chapter 31 Rules)

**COMMENTS OF THE
MISSOURI CABLE TELECOMMUNICATIONS ASSOCIATION**

COMES NOW the Missouri Cable Telecommunications Association (“MCTA”), and for its Comments in the above-referenced Docket, respectfully states as follows:

On May 18, 2017, the Missouri Public Service Commission (“Commission”) issued a Notice of Opportunity to Comment in this proceeding. In that Notice, the Commission invited interested stakeholders to address the following questions identified by Staff, relating to the Missouri Universal Service Fund (“Missouri USF”), by June 5, 2017, which deadline was extended to June 15, 2017:

1. How, if at all, will Staff’s projections that Missouri USF program participants will continue to decline at the rate of 15% per year be impacted by this proposal? If your response depends on the current Missouri USF support level, please clarify and explain.
2. Does your company offer landline broadband service? If yes, does your company offer broadband-only service? If broadband service is solely available on a bundled basis with voice service, please explain why a broadband-only service is not offered and whether the company intends to eventually offer a broadband-only service.
3. If your company offers a landline broadband-only service, how comparable are the rates for a broadband-only service versus a bundled package of voice and broadband services?
4. If your company participates in the Lifeline program:
 - a. How many Lifeline subscribers are currently provided with landline broadband-only service?
 - b. How many lifeline subscribers are currently provided with a landline bundled voice/broadband service?

- c. Will expanding Missouri USF support to a broadband-only service within the Lifeline and Disabled programs cause a significant impact on program participation?

Comments

On October 20, 2016,¹ and April 28, 2017,² MCTA filed comments in this docket providing that the Missouri USF cannot be expanded to support broadband-only service for several reasons. MCTA will not repeat those comments here, but they are hereby incorporated herein in their entirety by this reference thereto. Because the Commission does not have the statutory authority to expand the Missouri USF to support broadband service, it is premature for the Commission to be requesting information regarding the feasibility of such an expansion before it has addressed the legal issue that has been raised in this proceeding by a number of commenters. As detailed more fully in its prior comments, MCTA maintains its position that the Commission has no jurisdiction to expand the Missouri USF support to a broadband-only service.

- There is no legal authority for the Commission to use the Missouri USF to support any broadband service—whether “broadband-only” or as part of the services supported by the Missouri USF. This is because Missouri law prohibits the Commission from regulating broadband.
- Both federal and Missouri law prohibit this Commission from regulating interstate services, which include broadband service. The FCC has classified broadband as a

¹ See, Comments of the Missouri Cable Telecommunications Association, EFIS No. 37, October 20, 2016.

² See, Comments of the Missouri Cable Telecommunications Association, EFIS No. 47, April 28, 2017.

jurisdictionally interstate service for regulatory purposes.³ Therefore, similar to such interstate circuit-switched services, broadband service is not subject to state jurisdiction.⁴


- Policy concerns suggest that the Commission should delay any state-planned action to support broadband service. Pending federal litigation and newly opened FCC proceedings⁵ relevant to this question warrant the Commission waiting before acting in a manner that could be inconsistent with the courts and the FCC.

WHEREFORE, MCTA respectfully submits these comments for the Commission's consideration, and hopes that they will be useful in studying these issues regarding the Missouri USF.

Dated this 14th day of June, 2017.

Respectfully submitted,

MISSOURI CABLE TELECOMMUNICATIONS
ASSOCIATION



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³ See *In the Matter of Promoting the Open Internet*, Report and Order on Remand, Declaratory Ruling, and Order, GN Docket No. 14-28, 30 FCC Rcd. 5601 at ¶ 431 (Mar. 12, 2015).

⁴ See Section 386.030 (the Commission has no jurisdiction under Chapter 386 with respect to interstate commerce, except as permitted by federal law.); Section 392.190 states, “the provisions of section 392.190 to 392.530 shall apply to telecommunications service *between one point and another within the state of Missouri* and to every telecommunications company.” (Emphasis added.)

⁵ See, e.g., *In the Matter of Restoring Internet Freedom*, Notice of Proposed Rulemaking, WC Docket No. 17-108, FCC 17-60 (rel. May 23, 2017).