

Exhibit No.:

Issues: ETC Designation

Witness: Adam McKinnie

Sponsoring Party: MO PSC Staff

Type of Exhibit: Rebuttal Testimony

Case No.: TO-2003-0531

Date Testimony Prepared: December 5, 2003

**MISSOURI PUBLIC SERVICE COMMISSION**

**UTILITY OPERATIONS DIVISION**

**REBUTTAL TESTIMONY**

**OF**

**ADAM MCKINNIE**

**MISSOURI RSA NO. 7 LIMITED PARTNERSHIP  
D/B/A MID-MISSOURI CELLULAR**

**CASE NO. TO-2003-0531**

**Jefferson City, Missouri  
December 2003**

**\*\*Denotes Highly Confidential Information\*\***

**NP**

**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 For )	
Designation As A Telecommunications )	Case No. TO-2003-0531
Company Carrier Eligible For Federal )	
)	

**AFFIDAVIT OF ADAM MCKINNIE**

STATE OF MISSOURI    )  
                                  ) ss  
COUNTY OF COLE     )

Adam McKinnie, of lawful age, on his oath states: that he has participated in the preparation of the following Rebuttal Testimony in question and answer form, consisting of 11 pages of Rebuttal Testimony to be presented in the above case, that the answers in the following Rebuttal Testimony were given by him; that he has knowledge of the matters set forth in such answers; and that such matters are true to the best of his knowledge and belief.

Adam McKinnie

Adam McKinnie

Subscribed and sworn to before me this 3rd day of December, 2003.



DAWN L. HAKE  
Notary Public - State of Missouri  
County of Cole

Dawn L. Hake

Notary Public

My commission expires \_\_\_\_\_

My Commission Expires Jan 9, 2005

**REBUTTAL TESTIMONY OF**  
**ADAM MCKINNIE**  
**MISSOURI RSA NO. 7 LIMITED PARTNERSHIP**  
**D/B/A MID-MISSOURI CELLULAR**  
**TO-2003-0531**

Q. Please state your name and business address.

A. My name is Adam McKinnie. My business address is 200 Madison Street, Jefferson City, MO 65102-0360.

Q. By whom are you employed?

A. I am employed by the Missouri Public Service Commission (MoPSC or Commission) as a regulatory economist for the Telecommunications Department Staff (Staff) of the Commission.

Q. What is your educational background?

A. I hold a Bachelor of Art's degree in English and Economics that I received from Northeast Missouri State University (now called Truman State University) in May 1997. I also hold a Master of Science degree in Economics (with electives in Labor, Tax, and Industrial Organization) that I received from the University of Illinois in May 2000.

Q. What are your current responsibilities at the Commission?

A. I review, analyze, and prepare recommendations on tariff filings for both competitive and non-competitive companies, interconnection agreements, certificate applications and merger agreements. I have also conducted research and worked on special projects related to telecommunications and economics. This past year, I worked

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1 on the federal Universal Service Fund (USF) annual certification process for  
2 telecommunications carriers.

3 Q. Have you testified in front of the Commission before?

4 A. Yes I have. I filed testimony in Case No. IO-2003-0281.

5 Q. What is the purpose of your testimony?

6 A. The purpose of my testimony is to respond to the Direct Testimony of  
7 Missouri RSA No. 7 Limited Partnership d/b/a Mid-Missouri Cellular (MMC) witnesses  
8 Kurtis and Dawson, as well as MMC's application for Eligible Telecommunications  
9 Carrier (ETC) status. My testimony will explain why Staff is not in favor of granting  
10 ETC status to MMC.

11 Q. According to Section 214(e)(1) of the Telecommunications Act (Act), a  
12 carrier may be designated as an ETC (eligible telecommunications carrier) and receive  
13 universal service support as long as the carrier, throughout its service areas, offers  
14 services supported by federal support and advertises the availability of those services  
15 using media of general distribution. Has MMC provided verification of these  
16 requirements?

17 A. Yes. Similar to other ETC applications, MMC verifies in its application  
18 that it provides all of the services required by the Act and advertises the same throughout  
19 its service area. Staff concurs that MMC meets this eligibility requirement.

20 Q. In your opinion, what is the issue before the Commission with respect to  
21 this proceeding?

22 A. Section 214(e)(2) of the Act states that before designating an additional  
23 eligible telecommunications carrier for an area served by a rural telephone company, the

1 State commission shall find that the **designation is in the public interest**. In its Order  
2 Denying Motion to Dismiss, Setting Prehearing Conference, and Directing Filing of a  
3 Proposed Procedural Schedule, the Commission determined,

4 **“...it [the Commission] is best situated to make the determination of**  
5 **public interest.** The designation of a wireless carrier as an eligible  
6 telecommunications carrier in a rural area may impact the rights and well-  
7 being of small rural incumbent telecommunications carriers and it is the  
8 general jurisdiction of this Commission as granted by the state legislature  
9 to regulate those companies.” (footnote omitted, emphasis added)

10  
11 Therefore, the issue before the Commission is the determination of the public  
12 interest standard in granting MMC ETC status.

13 Q. Does the Act outline what standards should be used to determine “public  
14 interest”?

15 A. No. Staff is unaware of any proceeding either at the federal level or at the  
16 state level that specifically defines standards to be used when making a public interest  
17 finding. Staff acknowledges that other states and the FCC have made public interest  
18 findings when granting ETC status to wireless carriers; however, these statements have  
19 not set forth which standards, if any, were reviewed in making this determination.

20 Q. Has MMC provided definitive evidence in support of the public interest  
21 standard?

22 A. No, it has not. While MMC witness Kurtis discusses the public interest  
23 standard, no MMC witness provides evidence supporting his statements. The only  
24 discussion of the public interest standard is in the Direct Testimony of MMC Witness  
25 Kurtis on page 12, line 20:

26 In accordance with controlling precedent, the Commission should consider  
27 the effects on competition and consumer welfare resulting from a grant of  
28 MMC’s Application. The FCC and many state public utility commissions

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1 have recognized that designation of qualified ETCs promotes marketplace  
2 competition, which enhances consumer welfare by increasing customer  
3 choice, and by promoting innovative services and new technologies.  
4 Designating MMC an ETC will make it easier for customers in rural  
5 Missouri to choose telecommunications services based on pricing, service  
6 quality, customer service, and service availability. In addition, this  
7 designation will facilitate universal service in MMC's proposed ETC area  
8 by creating incentives to ensure that quality services are available at just,  
9 reasonable, and affordable rates.

10  
11 Q. Mr. Kurtis states that designating MMC an ETC will make it easier for  
12 customers in rural Missouri to choose telecommunications services based on pricing,  
13 service quality, customer service and service availability. What evidence has MMC  
14 provided as to how granting MMC ETC status will achieve this goal?

15 A. MMC has not provided any evidence of how it will be easier for the  
16 customer in rural Missouri to choose telecommunications services. In fact, it does not  
17 appear there is any difference in information available to the customer today and  
18 information available to the customer after granting the ETC status to MMC. The only  
19 apparent difference is that MMC infers some "dead spots" may disappear (Kurtis, Direct,  
20 Page 12, Lines 12-13), but this still does not mean that telephone consumers will have  
21 knowledge of this fact, nor that granting of ETC status will make it easier for consumers  
22 to choose a telecommunications provider.

23 Q. Why was the Universal Service Fund created?

24 A. Congress directed the FCC and the Federal-State Joint Board on Universal  
25 Service to develop policies for the preservation and advancement of universal service in  
26 an effort to provide communities across the country with affordable telecommunication  
27 services. Section 254(b) of the Act sets forth the following Universal Service Principles:  
28 (1) quality services at just, reasonable, and affordable rates; (2) access to advanced

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1 services; (3) access in rural and high cost areas; (4) equitable and nondiscriminatory  
2 contributions; (5) specific and predictable support mechanisms; (6) access to advanced  
3 telecommunications services for schools, health care and libraries; and, (7) additional  
4 principles as deemed necessary.

5 Of particular interest to this proceeding is principle three, which ensures that  
6 consumers in all regions of the Nation have access to telecommunication and information  
7 services that are reasonably comparable to those services provided in urban areas and that  
8 are available at rates that are reasonably comparable to rates charged for similar services  
9 in urban areas.

10 Q. Do the incumbent local exchange carriers (ILECs) in MMC's ETC study  
11 area receive universal support funds for their wireline telephone services?

12 A. Yes, they do.

13 Q. Does MMC expect to receive USF monies for a customer who also has a  
14 wireline phone?

15 A. Yes, it does. According to MMC Witness Kurtis' Direct testimony,  
16 starting on page 13, line 21:

17 *The federal universal support mechanism supports all lines served by all*  
18 *ETCs in rural and high cost areas. Receipt of high-cost support by MMC*  
19 *will not affect the per-line support amount received by incumbent carriers.*  
20 *To the extent MMC provides new lines to currently unserved customers or*  
21 *additional lines to existing wireline subscribers, there will be no impact on*  
22 *the amount of universal service support available to incumbent wireline*  
23 *carriers, rural and non-rural alike, for those lines they continue to serve.*  
24 *(emphasis added)*  
25

26 Q. Does Staff agree there will be no impact on the amount of universal  
27 support available to incumbent wireline carriers?

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1           A.     While there may be no impact on the amount of support available to  
2 incumbent wireline carriers, customers receiving telecommunications services from a  
3 wireline and wireless telephone each receiving support from the universal service fund  
4 can have impacts upon other recipients of the fund. When a competitive local exchange  
5 carrier (CLEC) receives ETC status, it is presumed that the CLEC will be taking the same  
6 customer line from the ILEC, thus receiving the funding the ILEC previously received.  
7 However, when a wireless carrier receives ETC status, for a large majority of the  
8 customers, it can be presumed that the ILEC will continue to receive support for the  
9 customer's wireline service while the wireless carrier would receive additional support  
10 for the customer's wireless service. More companies requesting support from the fund  
11 could affect the stability of the fund or force each ILEC to receive less support, forcing  
12 customers to pay more if rural ILECs retain their current level of profitability under rate  
13 of return (ROR) regulation. Either scenario would be a huge problem to many ILECs  
14 who serve in high cost areas, as the ILECs would be unable to offer wireline  
15 telecommunications services at rates their consumers could afford.

16           Q.     Is there any federal debate regarding these issues?

17           A.     Yes, there is. The FCC and the Joint Board are currently reviewing the  
18 overall health and stability of the USF, how to potentially fix any problems concerning  
19 the fund, and the effect of competitive carriers drawing money from that fund. Issues of  
20 importance include: how to designate which telecommunications line is the primary line  
21 (if a customer has multiple telecommunications lines); determining how to transfer USF  
22 monies from one company to another regarding one customer's telecommunications



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line(s); and determining whether or not multiple companies' receipt of USF monies for the same customer is appropriate.

Q. Will the other ILECs in the study area (Alma and Citizens) continue providing wireline telephone service if MMC is granted ETC status?

A. In response to Staff Data Requests, both companies indicated they would continue providing wireline telephone service.

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20       Q.       Why should the Commission be concerned about a corporate relationship  
21 and business transactions between MMC and Mid-Missouri Telephone?

22       A.       With regards to the universal service fund, Staff sees the granting of ETC  
23 status to MMC potentially leading to one corporate conglomerate, the Mid MO family  
24 (which includes both MMC and Mid-Missouri Telephone), receiving high cost USF  
25 money for maintaining components of the same telephone network. High cost USF  
26 money goes to companies to provide support for the provision, maintenance, and upgrade  
27 of all components of the telephone network, including the required computer services,  
28 circuits, and manpower required to provide that telecommunications service. If both  
29 MMC and Mid-Missouri Telephone received high cost USF funding for the same

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1 customer, that means that the same conglomerate would be receiving the same money  
2 twice for things such as: administrative services, operating costs, computer usage,  
3 buildings, circuit charges, and management and accounting services. In addition, the  
4 costs for an MMC wireless telephone line involve a transaction between the two  
5 companies (i.e., for the leasing of cell tower space, plus any other managerial overhead).

6 Q. How much oversight will the commission have over a wireless carrier who  
7 is granted ETC status?

8 A. Virtually none. When a CLEC is granted ETC status, the Commission has  
9 limited jurisdiction over the rates charged by that telecommunications carrier to ensure  
10 that the rates are just, reasonable and non-discriminatory. The Commission will have no  
11 such authority over the rates charged by MMC regardless of its ETC status. In effect,  
12 granting this status will give MMC a "blank check" over the future of its  
13 telecommunications service. As long as MMC is able to certify to the Commission that it  
14 is using the funds in accordance to Section 254(e) of the Act, MMC will continue to be  
15 eligible to receive high cost funds. Staff cannot guarantee that the principles of the USF  
16 would be achieved.

17 Q. Why is Staff concerned with Mid-Mo Telephone and MMC sharing  
18 expenses when one staff can do the job for both firms, or when equipment can be used for  
19 both firms?

20 A. While Staff is generally in favor of corporations using innovative  
21 techniques to keep costs down, Staff is concerned in this instance that USF money, which  
22 is intended for support of all portions of the loop (including the overhead necessary to  
23 keep the loop in business), is being paid out twice for only one job being done or for only

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1 one set of equipment. Staff is concerned this is an inappropriate use of the USF monies,  
2 as the Mid MO family of companies could be receiving more than its fair share of support  
3 for services, personnel, and equipment that Mid-Mo Telephone and MMC have in  
4 common. In other words, all entities and consumers that contribute to the USF would be  
5 financing the additional profits received by the Mid Missouri family of companies.  
6 Essentially, all other Missouri telecommunications consumers could be subsidizing the  
7 two sets of services, personnel, and equipment for the Mid MO family when only one set  
8 exists.

9 Q. Please summarize your testimony.

10 A. Staff does not support the granting of ETC status for MMC. MMC has  
11 not provided evidence as to how granting it ETC status is in the public interest, and Staff  
12 has concerns about the possibility of MMC and Mid-Mo Telephone both receiving  
13 federal USF support for shared facilities, equipment, and administrative functions.

14 Q. Does this conclude your rebuttal testimony?

15 A. Yes, it does.