

FILED³
FEB 19 2004
**Missouri Public
Service Commission**

Exhibit No.:

Issues: ETC Designation

Witness: Adam C. McKinnie

Sponsoring Party: MO PSC Staff

Type of Exhibit: Surrebuttal Testimony

Case No.: TO-2003-0531

Date Testimony Prepared: January 14, 2004

MISSOURI PUBLIC SERVICE COMMISSION

UTILITY OPERATIONS DIVISION

SURREBUTTAL TESTIMONY

OF

ADAM C. MCKINNIE

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

CASE NO. TO-2003-0531

**Jefferson City, Missouri
January 2004**

Exhibit No. 7
Case No(s). TO-2003-0531
Date 1-28-04 **Rptr** RT

**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)
Company Carrier Eligible For Federal)

Case No. TO-2003-0531

AFFIDAVIT OF ADAM C. MCKINNIE

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Adam C. McKinnie, of lawful age, on his oath states: that he has participated in the preparation of the following testimony in question and answer form, consisting of 6 pages of testimony to be presented in the above case, that the answers in the following 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 C. McKinnie

Subscribed and sworn to before me this 13th day of January, 2004.



DAWN L. HAKE
Notary Public - State of Missouri
County of Cole
My Commission Expires Jan 9, 2005


Notary Public

My commission expires _____

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

Q. Are you the same Adam McKinnie that filed Rebuttal Testimony in this case?

A. Yes, I am.

Q. What is the purpose of your Surrebuttal Testimony?

A. The purpose of my Surrebuttal Testimony is to respond to the Rebuttal Testimony of Arthur Martinez from CenturyTel of Missouri, Inc. and to clarify Staff's position as stated in my Rebuttal Testimony.

Q. Starting on page 9, line 30 of his Rebuttal Testimony, CenturyTel witness Martinez states:

“When ETC status is granted to a competitive carrier, the Commission is essentially determining that there is more than one provider in the designated areas that is fully capable and willing to provide basic telecommunications services throughout these areas. *Once this occurs, basic service should immediately be declared subject to effective competition* and the incumbent should be regulated on the same basis as the competitor, including total pricing flexibility on basic service rates.” (emphasis added)

Q. Has the Commission taken a position on this issue in the past?

A. Yes, it has. In its discussion of the state of competition in the Sprint Effective Competition Case, IO-2003-0281, the Commission noted that as an Eligible Telecommunications Carrier (ETC), ExOp was required to offer its services to customers

1 throughout an exchange. However, ExOp was not required to have facilities in place to
2 serve all customers in an exchange. The Commission stated in its Report and Order the
3 following regarding the relationship between ETC status and effective competition:

4 Although ExOp is an ETC in Platte City, and may someday be able
5 to serve a larger proportion of the customers in that exchange, its
6 status as an ETC does not immediately make it an effective
7 competitor for Sprint.

8 Q. Is it reasonable for a company to expect to have competitive status
9 bestowed on their basic local service in an exchange where another company has been
10 granted Eligible Telecommunications Carrier (ETC) status?

11 A. No, it is not. Missouri Statutes at Section 392.185 and 392.245 provide
12 guidance on the determination of effective competition. Section 392.245.5 states:

13 392.245(5) Each telecommunications service of an incumbent local
14 exchange telecommunications company shall be classified as
15 competitive in any exchange in which at least one alternative local
16 exchange telecommunications company has been certified under
17 Section 392.455 and has provided basic local telecommunications
18 service in that exchange for at least five years, unless the
19 commission determines, after notice and a hearing, that effective
20 competition does not exist in the exchange for such service. The
21 commission shall, from time to time, on its own motion or motion
22 by an incumbent local exchange telecommunications company,
23 investigate the state of competition in each exchange where an
24 alternative local exchange telecommunications company has been
25 certified to provide local exchange telecommunications service and
26 shall determine, no later than five years following the first
27 certification of an alternative local exchange telecommunication
28 company in such exchange, whether effective competition exists in
29 the exchange for the various services of the incumbent local
30 exchange telecommunications company.

31 Competitive classification occurs five years following the certification of an
32 alternative local exchange telecommunication company in such exchange, absent a
33 Commission investigation which finds otherwise.

1 Q. Is there a way for an ILEC to price on an exchange specific basis without
2 going through an effective competition case?

3 A. Yes, there is. 392.200.4(2) RSMo states that an incumbent local exchange
4 company in an exchange where an alternative local exchange company is providing basic
5 local or switched access service can submit a tariff filing as stated in 392.200.4(2)(a)
6 RSMo to price and market services:

7 (a) For services proposed on an exchange-wide basis, it shall
8 be presumed that a tariff which defines and establishes prices for a
9 local exchange telecommunications service or exchange access
10 service as a different telecommunications service in the geographic
11 area, no smaller than an exchange, within which such local
12 exchange telecommunications service or exchange access service
13 is offered is reasonably necessary to promote the public interest
14 and the purposes and policies of this chapter;

15 **Mid Missouri Family Relationship:**

16 Q. You stated an additional purpose of your testimony was to provide
17 clarification of Staff's position in its Rebuttal Testimony. Have you received
18 additional information that would assist the Commission?

19 A. Yes. I have. The company provided additional information in
20 response to supplemental Data Requests (DRs) submitted by Staff.

21 Q. Can you explain?

22 A. Staff, in its Rebuttal Testimony, expressed concerns about
23 intercompany transactions as depicted in company financials and their impact on
24 Mid Missouri Cellular (MMC) receiving support from the universal service fund.
25 Staff sent supplemental DRs seeking additional information on shared
26 transactions.

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1 Q. What is the current state of transactions between Mid Missouri
2 Cellular and Mid Missouri Telephone?

3 A. After having discussions with Mid Missouri representatives and
4 receiving Data Request Responses from Mid Missouri Cellular, Staff has learned
5 that only the following transactions currently take place between MMC and Mid
6 Missouri Telephone Company (MMT):

- 7 a. Mid-Missouri Cellular (MMC) leases four phone lines from
8 Mid- Missouri Telephone Company ("MMT").
- 9 b. MMC leases two cell sites from MMT and land and a small
10 building for a third cell site.
- 11 c. MMC leases seven T-1 circuits from MMT.
- 12 d. MMC leases from MMT a 6.7 mile fiber link from MMT's
13 Marshall Central Office to MMC's Marshall cell site.
14 MMC also leases from MMT a fiber link from Pilot Grove
15 to MMC's Boonville cell site.
- 16 e. MMC leases MMT's voice mail system for MMC's
17 customers' use.
- 18 f. MMT is a sales and service agent for MMC.
- 19 g. MMT receives cellular service from MMC.
- 20 h. MMT leases fiber between Alma and Marshall from MMC.
- 21 i. MMT leases four T-1 circuits from MMC.

22 Q. Do you have any additional information to provide about the current state
23 of past accounting and billing services for Mid Missouri Cellular that were performed by
24 Mid Missouri Telephone employees?

25 A. Yes, I do. Mid Missouri Cellular submitted responses to Staff Data
26 Requests that stated the following:

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1 Up to and including April 2002 when MMC acquired its own
2 billing system, MMT employees provided billing services to
3 MMC. After this acquisition, there was a transition period of
4 approximately thirty to sixty days when MMT employees had
5 some involvement in the billing function on behalf of MMC.
6

7 With respect to accounting, MMT employees provided those
8 services up to and including Nov. 4, 2003, when MMC engaged its
9 own in-house accountant, who was trained by MMT personnel for
10 approximately six weeks from the date of hire. MMC anticipates
11 that its in-house accountant will receive approximately one or two
12 additional days of training from MMT personnel in 2004. With
13 this minor exception, MMC now performs all billing and
14 accounting functions with MMC employees. As a result, MMC's
15 financials for 2004 will be the first year that reflect MMC billing
16 and accounting functions being performed entirely by MMC
17 personnel (with the exception of the limited training discussed
18 above).
19

20 Q. What conclusions can you draw from this additional information?

21 A. Many of the concerns about MMC and MMT both receiving support from
22 Universal Service Fund (USF) for shared services and or networks that Staff had in
23 Rebuttal Testimony have been addressed. Staff has been presented with information by
24 MMC that the billing systems and accounting functions of Mid Missouri's wireline and
25 wireless companies are now being handled separately. Staff has also been presented with
26 information regarding the current transactions between the two Mid Missouri companies.
27 The accounting safeguards regarding separate affiliate transactions are designed to
28 provide proper allocation of transactions. Theoretically, the separate affiliate safeguards
29 should prevent USF monies being delivered to both Mid Missouri companies for any
30 remaining shared activities; thus, alleviating Staff's concerns.

31 Q. Does this additional information change Staff's ultimate recommendation
32 to the Commission regarding the application at hand?

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1 A. No, it does not. As stated in Staff's Rebuttal Testimony, Mid Missouri
2 Cellular has not provided evidence regarding the public interest. If the Commission is
3 going to make a finding that MMC should be granted ETC status, the Commission must
4 make a finding that it is in the public interest.

5 Q. Please summarize your testimony.

6 A. The main purpose of my testimony is to respond to the Rebuttal
7 Testimony of Arthur Martinez from CenturyTel of Missouri, Inc. As I have discussed, an
8 ILEC's basic local service in an exchange should not be automatically granted effectively
9 competitive status just because another company has been granted ETC status in that
10 exchange. Missouri statutes outline the processes for determining when services are
11 deemed effectively competitive or when a company can price on an exchange-specific
12 basis. My testimony also clarifies Staff's Rebuttal Testimony as a result of receiving
13 additional information in response to supplemental Staff Data Requests. Finally, my
14 testimony reinforces Staff's recommendation that MMC's application for ETC status
15 should be denied because the company has not provided evidence for the Commission to
16 make a public interest finding.

17 Q. Does this conclude your surrebuttal testimony?

18 A. Yes, it does.