

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

In the Matter of the Third Application of)	
Missouri RSA No. 7 Limited Partnership)	
d/b/a Mid-Missouri Cellular)	
for Designation as a Telecommunications)	
Company Carrier Eligible for Federal Universal)	Case No. TO-2005-0325
Service Support pursuant to § 254 of the)	
Telecommunications Act of 1996.)	

MOTION FOR EXPEDITED TREATMENT

Comes Now MISSOURI RSA No. 7 LIMITED PARTNERSHIP d/b/a MID-MISSOURI CELLULAR (“MMC”) and pursuant to 4 CSR 240-2.080(16) hereby requests that the Missouri Public Service Commission (the “Commission”) process MMC’s Application for Designation as an Eligible Telecommunications Carrier on an expedited basis.

In support of this Motion, MMC states as follows:

1. On February 13, 2003 MMC filed its original Application for Designation as an Eligible Telecommunications Carrier Pursuant to § 254 of the Telecommunications Act of 1996. The case was docketed as Case No. TO-2003-0288. The original application was in all material respects identical to the application MMC subsequently filed in Case No. TO-2003-0531 on June 2, 2003.

2. Based upon an erroneous interpretation of pleadings submitted in Case No. TO-2003-0288, MMC was deemed to have voluntarily dismissed its case. MMC had no intention of voluntarily dismissing its case and refiled its application because it remained committed to obtaining ETC status.

3. This erroneous interpretation cost MMC four months' time in processing its ETC application. While the passage of four months' time might not alone be significant, those four months proved pivotal to not only the timing but also potentially the outcome of the proceeding. The refiled MMC application was set for hearing in late January of 2004. On the eve of the hearing, the FCC released its *Virginia Cellular* Order which dramatically changed the process under which FCC ETC applications were processed. The MMC proposal, which was wholly consistent with the pre-*Virginia Cellular* case law, had to be substantially modified at open hearing to comply with the newly released order.

4. After the record closed and the briefs were filed, the FCC came out with its *Highland Cellular* Order which further changed the FCC's procedures in dealing with ETC applications. Again, MMC sought to conform its proposal. The Commission denied the MMC Application and MMC sought rehearing. Once again, after the filing of the petition for rehearing, the FCC issued its *Nextel* Order which once again clarified FCC ETC procedures. Those clarifications were consistent with MMC's position in seeking rehearing and MMC sought to address the legal issues raised in the *Nextel* Order and provide additional information consistent with that holding.

5. By an Amended Report and Order issued on November 30, 2004, the Commission denied MMC's request to be designated as an ETC. In denying MMC's Application, the Commission alluded to this tortured history.

Because this is a case of first impression, the Commission has been lenient with Mid-Missouri Cellular's presentation of its application, allowing supplementation of the record throughout the proceeding and even allowing the amendment of the application by the briefs. At some point, however, Mid-Missouri Cellular's opportunity to supplement the record must cease. The Commission finds that to reopen the record would be unduly burdensome and

does not allow for finality of the Commission's Report and Order. Therefore, the Commission will deny the request to accept additional evidence or to reopen the record.

6. In denying the MMC Application, the Commission stated that "The Commission determines that the grant of ETC status to MMC is not in the public interest because MMC has not provided competent and substantial evidence to show that the public will benefit from designating MMC an eligible telecommunications carrier for universal service fund purposes." *Amended Report and Order* at p. 28. The Commission went on to identify the specific deficiencies it found in MMC's evidence addressing the public interest standard.

7. Since the denial of ETC designation, MMC has sought a waiver of the FCC E911 rules requiring that 100% of all new handset sales and activations be made with location-capable handsets. MMC has proceeded to overlay approximately 2/3 of its cell sites with the CDMA equipment necessary to comply with the rules but has made clear that it cannot, without ETC designation, and the resulting Universal Service Fund support, complete the build-out of the remainder of its sites.

8. If MMC's original Application (Case No. TO-2003-0288) had been processed and the evidence found sufficient to meet the public interest standard as of that date, MMC would have received approximately \$1,500,000 in Universal Service Fund support. Receipt of these funds would have enabled MMC to complete its CDMA overbuild and expand service into some of the rural-most areas of its market. USF support is tied to the date of designation for an ETC. Accordingly, every day that passes represents the loss of another \$5,000 in USF support; monies forever lost from benefiting the citizens of rural Missouri.

9. MMC continues to believe it is in its best interest, as well as those of its customers, potential customers and the public generally to have this matter resolved as expeditiously as possible. If granted ETC status, MMC would be eligible to receive revenue from the federal Universal Service Fund which in turn would enable it to better serve its customers. Specifically, MMC would be able to comply with the FCC E911 rules throughout its service territory; maintain or enhance the level of competition within its service territory; and continue to build out its network and thereby enhance the level of coverage within its service territory. To that end, MMC has simultaneously herewith filed a new Application for Designation as an Eligible Telecommunications Carrier.

10. To facilitate an expedited procedural schedule and conserve the resources of the Commission and interested parties, MMC has filed with its Application its complete prepared direct case. MMC's direct case includes the prepared direct testimony of Mr. Kevin Dawson and Mr. Michael Kurtis. MMC believes that the evidence presented in its direct case thoroughly addresses all of the deficiencies identified in the Commission's Amended Report and Order and provides clarification of all changed circumstances and law since that date. MMC has also served complete copies of its filing on all parties who were granted intervention in Case No. TO-2003-0531.

11. MMC requests that the Commission expeditiously provide notice of the filing of this case and set an early prehearing conference, no later than the final week of April, for the purpose of establishing an expedited procedural schedule.

12. This pleading is being filed as soon as practicable after the subject application was filed and docketed.

WHEREFORE, for all of the foregoing reasons, MMC respectfully requests that the Commission grant this motion for expedited treatment.

Respectfully submitted,

**MISSOURI RSA No. 7 LIMITED PARTNERSHIP
d/b/a MID-MISSOURI CELLULAR**

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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing Motion for Expedited Treatment has been hand-delivered, transmitted by e-mail or mailed, First Class, postage prepaid, this 25th day of March, 2005, to:

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