

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 Carrier Eligible)	Case No. TO-2005-0325
for Federal Universal Service Support)	
Pursuant to Section 254 of the)	
Telecommunications Act of 1996.)	

Statement of Position of Intervenors
Alma Communications Company d/b/a Alma Telephone Company,
Citizens Telephone Company of Higginsville, Missouri,
and Mid-Missouri Telephone Company

Come now Intervenors, Alma Communications Company d/b/a Alma Telephone Company (“Alma”), Citizens Telephone Company of Higginsville, Missouri (“Citizens”), and Mid-Missouri Telephone Company (“Mid-Missouri”) (collectively “Alma et al.”) and offer the following Statements of Position regarding the list of issues in this proceeding.

Issue 1. Telecommunications companies seeking eligible telecommunications carrier (“ETC”) status must meet the requirements of Section 214(e)(1) throughout the service area for which designation is received. Section 214(e)(1) requires carriers to offer the services that are supported by Federal universal service support mechanisms and to advertise the availability of such services and charges therefore using media of general distribution. Does MMC meet the requirements of Section 214(e)(1) throughout the service area for which MMC seeks ETC designation?

Position Statement of Alma et al. to Issue 1.

Alma et al. question whether MMC meets all of the requirements of Section 214(e)(1) because MMC does not provide any of the required services in the exchanges of Fortuna, High Point and Latham. As to these three Mid-Missouri exchanges that lie outside of MMC's FCC-licensed area, MMC does not provide service in these exchanges and has not sufficiently established how it would provide the required services in those exchanges.

Additionally, FCC rules require that ETCs offer Lifeline service. Although MMC has stated that it intends to offer Lifeline plans to its subscribers, Alma et al. believe there are concerns that these plans will not be affordable. MMC's Lifeline service plans should be carefully considered by the Commission.

Issue 2.

ETC designations by a state commission must be consistent with the public interest, convenience and necessity pursuant to Section 214(e)(2). The FCC's ETC Report and Order determined that this public interest standard applies regardless of whether the area is served by a rural or non-rural carrier. Is granting ETC status to MMC consistent with the public interest, convenience and necessity throughout the service area for which MMC seeks ETC designation?

Position Statement of Alma et al. to Issue 2.

Alma et al. have concerns that MMC's application for approval as an ETC may not be consistent with the public interest in several respects. Alma et al. believe that the Commission should consider the recommendations of the FCC enunciated in its ETC Report and Order (see Position Statement to Issue 3) in evaluating the public interest. The first recommendation is that the applicant offer local usage plans that are comparable to those offered by the incumbent LEC in the areas for which it seeks designation. In its Report and Order, the FCC also clearly

recognized that a state commission could prescribe a minimum amount of local usage as a prerequisite to granting ETC status. Although MMC intends to offer one “ILEC-Equivalent” plan for unlimited local usage within a customer’s home cell site, the other “unlimited” plans offered by MMC are considerably more expensive than the unlimited local usage service provided by the Incumbent Local Exchange Companies (ILECs). Alma et al. believe that the Commission should carefully consider the purposes of the USF fund and compare the lower rates of the unlimited calling plans of the ILECs when evaluating whether to grant ETC designation to MMC.

The second FCC recommendation in its Report and Order is that the ETC applicant demonstrate its ability to remain functional in emergency situations. Specifically, the FCC requires a demonstration of reasonable back-up power, ability to reroute traffic and capability of managing traffic spikes. The FCC also invited state commissions to adopt geographically specific factors for their own emergency functionality requirements. The Commission has established emergency operation requirements in 4 CSR 240-32.060(5), and Alma et al. believe that in order to be competitively neutral and to provide adequate service support in emergency situations, the Commission should require MMC to adhere to similar emergency requirements. Failure to do so would create a framework that would unfairly advantage MMC over the ILECs leaving customers without adequate safeguards.

The third recommendation by the FCC for determining the public interest is that the applicant acknowledge that it may be required to provide equal access if all other ETCs in the designated area relinquish their carrier of last resort obligations. MMC has satisfied this commitment.

The FCC also recommended that the ETC applicant demonstrate that it will satisfy consumer protection and service quality standards. The FCC further stated that states may regulate CMRS terms and conditions in order to preserve and advance universal service and encouraged states to consider consumer protection in the wireless context as a prerequisite for obtaining ETC designation from the state. The FCC stated that state commissions could either use the FCC framework or impose its own requirements in order to ensure consumer protection and service quality. ILECs in Missouri that have been granted ETC status are required to adhere to the service quality standards found in Chapter 32 of the Commission's rules and the billing standards found in Chapter 33. Under the current provision of the Missouri statutes, CMRS carriers are not subject to these rules. MMC has stated that it will comply with the CTIA Consumer Code, a voluntary code which the Commission has no way of monitoring or enforcing. Alma et al. believe that in order to meet the public interest standard, MMC should be required to comply with consumer protection and service quality standards similar to those, if not the same as, the ILECs.

In order to demonstrate that the grant of ETC status is in the public interest, the FCC also recommended that the applicant provide a five-year plan demonstrating how high-cost support will be used to improve its coverage, service quality or capacity in every wire center. In its testimony, MMC discussed network improvement plans that consisted of completion of MMC's CDMA overlay in its FCC-licensed service area and the deployment of additional planned cell sites over the next five years. Yet, there is substantial evidence in the testimony that the network improvement plans are being completed without USF funds. Thus, it is hard to demonstrate a public benefit from the grant of ETC status, when the improvements will be made with or

without the USF funds.

In addition, Alma et al. do not believe that MMC has provided sufficient evidence to meet the FCC's recommendation. The FCC recommended that an ETC applicant submit a formal five-year plan specifically describing in detail on a wire center basis 1) how signal quality, coverage or capacity will improve, 2) the projected start and completion dates for each improvement and the estimated amount for each project, 3) the specific geographic areas where the improvements will be made, and 4) the estimated population that will be served. MMC has not done this. In fact, MMC admits that the proposed cell sites are tentative as to timing and location and are contingent on the level of USF support and customer demand. Alma et al. question whether MMC has met the FCC recommendation regarding a five-year plan demonstrating how high-cost support will be used and sufficiently demonstrated that the grant of ETC designation is in the public interest.

In addition to these five recommendations, the FCC listed additional public interest considerations such as the benefits of increased consumer choice, the unique advantages and disadvantages of the ETC applicant's service offerings, and the impact on the federal USF. The FCC further stated that for ETC designations in rural carrier areas, there should be a more rigorous public interest analysis than for non-rural areas. Alma et al. do not believe that MMC has demonstrated that the grant of ETC status to it will increase consumer choice as the area is already served by incumbent LECs and several wireless carriers nor that there are any unique advantages to its more expensive service offerings. And, there is no doubt that the grant of ETC designation to CMRS carriers such as MMC will have some adverse effect on the federal USF fund. Alma et al. question whether the supposed benefits listed by MMC are sufficient to meet

the recommendations for evaluating the public interest standard in the FCC Report and Order.

Issue 3.

The FCC's ETC Report and Order determined that carriers seeking ETC designation from the FCC must meet certain requirements related to eligibility, the public interest, and annual certification and reporting. The FCC encouraged state commissions to apply these requirements. Should the Commission consider the guidelines approved by the FCC's ETC Report and Order in its evaluation of the application filed by MMC?

Statement of Position for Issue 3.

Alma et al. believe that the Commission should consider the recommendations and guidelines set out in the FCC's ETC Report and Order when evaluating the application for ETC designation filed by MMC. The guidelines in the ETC Report and Order are a statement of the minimum public interest requirements that the FCC will follow in ETC cases and should be used to provide guidance to state commissions in their evaluations of ETC applicants. The FCC strongly encouraged the states to adopt these minimum recommendations and to adopt more rigorous guidelines for ETC designation than had been used in the past. The FCC decision and recommendations were an effort to preserve the federal USF and to reduce growth attributable to lax ETC designations by the states. The FCC stated that these guidelines were minimum recommended guidelines for the states, so state commissions are free to adopt different and more restrictive criteria if necessary. The Commission should use the FCC's recommended guidelines as a starting point and add any other public interest considerations it feels are necessary in order to reach a decision regarding MMC's application.

Respectfully submitted,

/s/Sondra Morgan

W. R. England, III Mo.Bar #23975
Sondra B. Morgan Mo.Bar #35482
BRYDON, SWEARENGEN & ENGLAND P.C.
P.O. Box 456
Jefferson City, Missouri 65102
(573) 635-7166
(573) 635-0427 (Fax)
Email: smorgan@brydonlaw.com
(email)

Attorneys for
Alma Communications Company d/b/a
Alma Telephone Company, Citizens Telephone
Company of Higginsville, Missouri, and Mid-
Missouri Telephone Company

Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was sent by electronic submission, hand-delivered or mailed, United States Mail, postage prepaid, this 27th day of July, 2005 to:

Mike Dandino
Senior Public Counsel
Office of Public Counsel
P.O. Box 7800
Jefferson City, MO 65102

Marc Poston
Senior Counsel
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

Paul DeFord
Lathrop & Gage, L.C.
2345 Grand Boulevard, Suite 2800
Kansas City, MO 64108-2684

/s/Sondra B. Morgan
Sondra B. Morgan