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*Issue:* Application for Designation as an Eligible  
Telecommunications Carrier  
*Witness:* Michael K. Kurtis  
*Type of Exhibit:* Amended Surrebuttal Testimony  
*Sponsoring Party:* Missouri RSA No. 7 Limited Partnership  
d/b/a Mid-Missouri Cellular  
*Case No.:* TO-2003-0531  
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**MISSOURI RSA No. 7 LIMITED PARTNERSHIP**

**d/b/a**

**MID-MISSOURI CELLULAR**

**AMENDED SURREBUTTAL TESTIMONY**

**OF**

**MICHAEL K. KURTIS**

**FILED<sup>3</sup>**

**FEB 19 2004**

**Missouri Public  
Service Commission**

**CASE No. TO-2003-0531**

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

**AMENDED SURREBUTTAL TESTIMONY**  
**OF**  
**MICHAEL K. KURTIS**  
**APPLICATION OF MISSOURI RSA No. 7 LIMITED PARTNERSHIP**  
**d/b/a MID-MISSOURI CELLULAR**  
**CASE NO. TO-2003-0531**

Q. Have you reviewed the Rebuttal Testimony of: Adam McKinnie on behalf of the Telecommunications Department Staff ("Staff") of the Missouri Public Service Commission; Robert C. Schoonmaker on behalf of Alma Telephone Company and Citizens Telephone Company; and Arthur P. Martinez on behalf of Spectra Communications Group, LLC d/b/a CenturyTel and CenturyTel of Missouri, LLC in this proceeding?

A. Yes, I have.

Q. How will you refer to the three rebuttal testimonies in your instant surrebuttal testimony?

A. I will refer to them as: (a) the McKinnie Rebuttal (on behalf of Commission Staff); (b) the Schoonmaker Rebuttal (on behalf of Alma and Citizens); and (c) the Martinez Rebuttal (on behalf of CenturyTel).

Q. What general conclusions were reached by the rebuttal witnesses?

A. The McKinnie Rebuttal (p. 11) concluded that the Commission should completely deny ETC status to MMC. The Schoonmaker Rebuttal (p. 5) asserts that the Commission can deny MMC's ETC application outright, but subsequently recommends (p. 29) denial of ETC status in the Alma and Citizens study areas. CenturyTel's witness Martinez concluded (p. 17) that "a balancing of the public interest factors supports denial of MMC's application as it pertains to rural areas served by [rural local exchange carriers.]" Alternatively, Martinez advised the Commission to stay the case "at least to the extent MMC seeks designation in areas served by

1 [rural local exchange carriers].”

2 Q. Subsequent to filing the McKinnie Rebuttal, has Commission Staff revised its  
3 position concerning opposition to MMC’s application?

4 A. Commission Staff seems to have revised its ultimate conclusion with respect to  
5 MMC’s application. Staff apparently has recognized that its categorical opposition to any grant  
6 of ETC status to MMC is irreconcilable with Section 214(e)(2) of the Communications Act. In  
7 response to MMC Data Request 2.d. (Exhibit 1 hereto), Staff conceded that its “position  
8 regarding MMC’s not meeting the public interest standard applies to the areas where the  
9 underlying carrier is rural; that is, all areas except those served by SBC Missouri.” This is a tacit  
10 admission by Staff that MMC is legally entitled to ETC status in areas served by non-rural  
11 ILECs. Staff’s contention, however, that only the areas in MMC’s proposed ETC designated  
12 area served by SBC Missouri are non-rural is factually incorrect, as discussed below.

13 Q. How has the FCC decided wireless ETC applications in cases where the local  
14 state public utility or public service commission declined jurisdiction?

15 A. In cases decided by the FCC, ETC status has been uniformly granted, without  
16 limiting conditions or qualifications. Thus, the FCC has awarded ETC status irrespective of the  
17 underlying ILEC’s classification as a “rural” or “non-rural” carrier.

18 Q. In wireless ETC application cases where the local state commission asserted  
19 jurisdiction, what has been the result?

20 A. In cases decided by local state commissions in Nebraska, South Dakota and  
21 Washington, the applicant was granted ETC status for both rural and non-rural areas. In a single  
22 case in Utah, the grant was limited to non-rural areas. I am aware of no case where a state  
23 commission denied a wireless ETC application outright. For that reason, the unequivocal claim  
24 in the Schoonmaker Rebuttal (p. 5, line 6) that the Commission can deny MMC’s application flat  
25 out is incorrect and is in no way supported by the single case cited therein. Note also that the  
26 ETC applicant in the Utah case was Western Wireless, a regional cellular carrier that provides

1 service in multiple states. As discussed further herein, MMC operates exclusively in Missouri;  
2 accordingly, there is absolutely no prospect that contributions to MMC authorized by this  
3 Commission's grant of ETC status will be used by MMC to support services provided in other  
4 states.

5 Q. Why did you characterize as factually incorrect Staff's assertion, in response to  
6 MMC Data Request 2.d. (Exhibit 1 hereto), that MMC's proposed ETC designated area is  
7 entirely rural, except for areas served by SBC Missouri?

8 A. The Martinez Rebuttal (at p. 12) indicates that CenturyTel of Missouri, LLC's  
9 ("CenturyTel's") Central and Southwest study areas are non-rural. Appendix D to MMC's  
10 Application shows that portions of CenturyTel's Prairie Home and Woolridge exchanges and a  
11 very small area in its Rocheport exchange are within MMC's proposed ETC designated area.  
12 These exchanges are absent from Schedule 1 to the Martinez Rebuttal, which "identifies all the  
13 current rural exchanges in each of the three rural study areas for both Spectra and CenturyTel of  
14 Missouri." Accordingly, I conclude that the Prairie Home, Woolridge and Rocheport exchanges  
15 are part of CenturyTel's Central study area and are non-rural.

16 Q. What are the reasons to include the local exchanges of Sprint Missouri, Inc.  
17 ("Sprint") and Mid-Missouri Telephone Company ("MMTC") within the designated area to  
18 which a grant of ETC status to MMC will extend?

19 A. The most important reason is that, as explained in greater detail in this testimony,  
20 such a grant will serve the public interest, convenience and necessity -- which justifies including  
21 the Alma and Citizens exchanges in MMC's ETC area as well. With specific reference to Sprint  
22 and MMTC, however, there are several additional factors militating in favor of inclusion. Recall  
23 that Staff initially moved to dismiss MMC's application (*see* Staff Motion to Dismiss, filed  
24 June 13, 2003); grant of that motion would have allowed MMC to seek ETC status from the FCC  
25 where an unconditional grant covering rural and non-rural exchanges was virtually assured. The  
26 Commission rejected the Staff Motion in its Order Denying Motion to Dismiss, Setting

1 Prehearing Conference, and Directing Filing of a Proposed Procedural Schedule (at 5) on the  
2 ground that:

3           The designation of a wireless carrier as an eligible  
4           telecommunications carrier in a rural area may impact the rights  
5           and well-being of *small rural incumbent telecommunications*  
6           *carriers* and it is the general jurisdiction of this Commission as  
7           granted by the state legislature to regulate those companies.

8           (Emphasis added; footnote omitted).

9 It strains credulity to contend that the Commission, in asserting jurisdiction over MMC's  
10 application to safeguard the rights and well-being of small rural incumbent telecommunications  
11 carriers, was thinking principally or even secondarily of Sprint, a company whose local  
12 telecommunications operations provides local telephone service through over 8 million access  
13 lines located in 18 states. But even if the Commission views Sprint as a "small rural incumbent,"  
14 the Commission must acknowledge that Sprint intervened in this proceeding to *support* MMC's  
15 request for ETC status. (Application To Intervene in Case No. TO-2003-0531 of Sprint  
16 Missouri, Inc. and Sprint Spectrum, L.P., filed June 25, 2003, p. 5.) Supporting MMC's quest  
17 for ETC status cannot be reconciled with confining MMC's designated ETC area to exchanges  
18 served only by non-rural ILECs, and Sprint has never advocated such a position in this  
19 proceeding. Similarly, MMTC, an affiliate of MMC, has never indicated agreement with the  
20 rejectionist notions advanced by Commission Staff, Alma and Citizens, and, to a lesser extent,  
21 CenturyTel. Indeed, MMTC never intervened in the instant proceeding.

22           Q.     Why is grant of MMC's application without conditions or limitations consistent  
23 with the public interest, convenience and necessity, and in the public interest?

24           A.     As I stated in my direct testimony (p. 12, line 23):  
25                   designation of qualified ETCs promotes marketplace competition,  
26                   which enhances consumer welfare by increasing customer choice,

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

9 Although the rebuttal witnesses variously challenge this testimony, their allegations and  
10 accusations fail to withstand scrutiny. For example, the McKinnie Rebuttal (p.4, lines 15-16)  
11 charges that MMC has provided no evidence of how it will be "easier for the customer in rural  
12 Missouri to choose telecommunications services." I testified, however, that designating MMC  
13 an ETC will *increase* the choices available to consumers in Missouri. For example, my direct  
14 testimony (p. 11, line 13) demonstrated that because of MMC's expanded local calling area,  
15 MMC subscribers will be able to avoid intra-LATA toll charges associated with ILEC service.  
16 Mr. McKinnie never refutes or challenges the testimony concerning MMC's more extensive  
17 local calling area, testimony with which CenturyTel's witness Martinez candidly agrees (p. 16,  
18 line 24). Notably, the FCC has held that reduced intra-LATA toll charges offered by wireless  
19 ETCs make intrastate toll calls more affordable to rural consumers, a benefit not available from  
20 incumbent carriers. MMC's service offering thus fulfills FCC policies favoring competition and  
21 provision of affordable telecommunications services to rural consumers. For these reasons,  
22 witness Martinez's claim (p. 16, line 28) that MMC's expanded local calling area creates  
23 "regulatory inequity [that] puts RLECs at a competitive disadvantage" is contrary to FCC  
24 precedent and policies, and should be disregarded.

25 In Case No. CO-2003-0162, the Staff raised no objection whatsoever to claims by a  
26 CLEC applicant that its designation as an ETC in a rural exchange met the public interest

1 requirement of Section 214(e)(2) of the Communications Act. In stark contrast to the instant  
2 proceeding, the Staff -- without the benefit of discovery, direct testimony or a hearing -- signed a  
3 Stipulation and Agreement in the CLEC case stating that designating the CLEC applicant as an  
4 ETC met the statutory public interest requirement because such designation would expand the  
5 availability of innovative, high-quality and reliable telecommunications service and would  
6 further stimulate economic development in the State of Missouri.

7 In an apparent attempt to justify Staff's support of CLEC ETC designations in  
8 CO-2003-0162 and similar cases, Mr. McKinnie testified (p.6, line 4) that when a CLEC receives  
9 ETC status it is presumed that the CLEC "will be taking the same customer line from the ILEC"  
10 whereas the wireless ETC, by contrast, will provide additional lines "for a large majority of the  
11 [ILEC's] customers." Assuming *arguendo* that Mr. McKinnie's presumptions (for which he  
12 provides absolutely no authoritative support) are true, then does not the wireless ETC's  
13 provisioning of additional lines to existing ILEC subscribers expand the availability of  
14 innovative, high-quality and reliable telecommunications service and stimulate in-state economic  
15 development to an equal or greater degree than the CLEC's mere replacement of existing  
16 service? This rather profound inconsistency in the Staff's approach to CLEC versus wireless  
17 ETC petitions is nowhere explained in the McKinnie Rebuttal.

18 Q. Does the Schoonmaker Rebuttal challenge your testimony that designating MMC  
19 an ETC will increase the choices available to Missouri consumers?

20 A. No, Mr. Schoonmaker actually confirms my testimony, albeit unintentionally. He  
21 testifies (p. 13, line 18) that, under MMC's Unlimited Zone Plan ("UZP"), a consumer can  
22 obtain unlimited local usage for \$34.95 with no toll charges for intra-LATA calling. He then  
23 opines that there is little public interest benefit in providing universal service support for such a  
24 plan because "the customer could obtain *similar service* from Citizens for \$8.40 per month and  
25 Alma for \$6.50" (emphasis added). To claim that MMC's UZP offers consumers a service that  
26 is "similar" to the basic Citizens and Alma rate plans is grossly misleading. MMC's service

1 allows for complete mobile usage anywhere in MMC's FCC licensed service area by residential  
2 and business subscribers alike; the Citizens and Alma service, which is limited to residential  
3 subscribers only, allows service from a single fixed location. Further, MMC's UZP subscribers  
4 enjoy toll-free LATA wide calling, whereas their Citizens and Alma counterparts incur tolls  
5 whenever they call outside their circumscribed local calling areas. Even MMC Lifeline  
6 customers will enjoy the benefits of mobile telecommunications throughout the reliable service  
7 area of the cell site (or sites) that serves the subscriber's residence. (A single MMC cell site's  
8 reliable service area may be circumscribed by a radius ranging approximately ten to eighteen  
9 miles from the site's transmitting antenna.) In addition, in emergency situations, all MMC  
10 subscribers, including Lifeline subscribers, will be able to initiate "911" calls **anywhere in the**  
11 **United States**. FCC rules requiring carriers to route calls placed to 911, without cost to the user  
12 and regardless of the subscriber's calling plan, make the wireless handset infinitely more  
13 versatile and robust than a fixed, wireline phone. Thus, the MMC and Citizens/Alma services,  
14 which Mr. Schoonmaker so uncritically categorizes as "similar," differ substantially in terms of  
15 functionality and usage capabilities.

16 Even if the Schoonmaker Rebuttal were correct that MMC's UZP, on the one hand, and  
17 the Alma and Citizens' basic residential service options, on the other, were somehow "similar"  
18 (which they most assuredly are not), UZP is only one of several service/rate plans offered by  
19 MMC, each with its own unique combination of "free" (*i.e.*, bundled) local usage and toll-free  
20 calling. The FCC ruled in its Twelfth Report and Order (Federal-State Joint Board on Universal  
21 Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas,  
22 Including Tribal and Insular Areas, CC Docket No. 96-45) that rural consumers benefit when  
23 wireless ETCs offer a variety of calling plans. The array of plans offered by MMC greatly  
24 expands the telecommunications choices available to Missouri consumers.

25 It should also be noted that witness Schoonmaker's claim (p. 14, line 2) that "the  
26 consumer could obtain similar service from Citizens for \$8.40 per month and from Alma for



1 \$6.50” could be misconstrued because the stated rates omit the mandatory federal subscriber line  
2 charge of \$6.50 that the consumer will incur for this service.

3 Q. What other claims do the rebuttal witnesses make in their attempts to cast doubt  
4 on the public interest benefits of granting ETC status to MMC?

5 A. The Schoonmaker Rebuttal (p. 11, line 2) contends that “it would not appear to be  
6 in the public interest to provide universal service support to a wireless carrier” who did not  
7 provide equal access to interexchange carriers as ILECs are required to provide. Thus, witness  
8 Schoonmaker is proposing to this Commission that MMC’s ETC application should be denied  
9 because MMC failed to provide a service that is nowhere mentioned as a requirement for ETC  
10 eligibility in Section 54.101(a) of the FCC’s Rules, 47 C.F.R. § 54.101(a). Compounding this  
11 lapse of logic, witness Schoonmaker fails to acknowledge the reason the FCC decided to exclude  
12 equal access as an ETC eligibility requirement. Section 332(c)(8) of the Communications Act  
13 states that a provider of commercial mobile services, such as cellular communications, “shall not  
14 be required to provide equal access to common carriers for the provision of telephone toll  
15 services.” The FCC expressly excluded equal access to interexchange service among the  
16 services supported by universal service support mechanisms because such a requirement would  
17 contradict the mandate of Section 332(c)(8). Stated briefly, the Schoonmaker Rebuttal seeks to  
18 penalize MMC for failing to provide a service the FCC has ruled would violate a federal statute  
19 if required as a condition for universal service support.

20 The FCC’s decision to exclude equal access as an ETC eligibility requirement  
21 notwithstanding, nothing in MMC’s ETC application or in its direct testimony indicates that  
22 MMC is unwilling to provide equal access. MMC is prepared to offer equal access to a Lifeline  
23 customer because, as indicated in the Surrebuttal Testimony of MMC witness Kevin Dawson,  
24 toll is not included in that service offering. MMC service plans that include unlimited toll  
25 service are conditioned on use of MMC’s toll provider. An MMC subscriber to one of these  
26 plans could opt out from using MMC’s toll provider, electing to designate and compensate its

1 preferred IXC charges in lieu of the “free” or bundled toll service included in the applicable plan.  
2 To date, no MMC subscriber has ever pursued this option, nor does MMC anticipate that any  
3 subscriber will do so because its subscribers already have unlimited toll either included as part of  
4 their monthly access or, depending on the service plan, available for a low, fixed monthly fee.  
5 Nevertheless, MMC stands ready, willing and able to provide equal access under the terms just  
6 described.

7 Q. Each rebuttal witness -- McKinnie (p. 6, line 10), Schoonmaker (p. 27, line 12)  
8 and Martinez (p. 8, line 20), -- testifies that grant of competitive ETC status to carriers other  
9 than ILECs in general and/or to MMC in particular will somehow jeopardize the sustainability of  
10 the Universal Service Fund’s limited resources. Do you agree with this testimony?

11 A. No, I do not. In the referenced testimony, the rebuttal witnesses are challenging  
12 the federal law and policies that allow grant of ETC status to any wireless carrier. Those  
13 generalized arguments should be made to the United States Congress and to the FCC, the two  
14 entities that authorized wireless carriers to receive ETC status. They have no place in this  
15 proceeding, which concerns the lawful application of a single carrier. As I testified, the FCC and  
16 the state commissions (with one exception noted above) have granted and continue to grant ETC  
17 status to wireless carriers for rural and non-rural areas alike. Whatever the outcome of this  
18 proceeding, wireless carriers nationwide will continue to obtain USF support. The sole issue  
19 before this Commission is whether any of those universal service funds will be used to enhance  
20 and improve wireless service within Missouri or whether access to those funds will be available  
21 to rural wireless carriers in every state **but** Missouri.

22 Q. Do you agree with the rebuttal witnesses’ assertions that designating additional  
23 wireless ETCs jeopardizes the sustainability of the USF?

24 A. I do not. Mr. McKinnie, for example, testified (p. 6, line 11) that “[m]ore  
25 companies requesting support from the fund could affect the stability of the fund or force each  
26 ILEC to receive less support . . .” Before addressing this argument’s substance, I must remark

1 that if the Staff really believed this claim then its response to the multiple applications for ETC  
2 status by Missouri CLECs would have been consistent with its instant opposition to MMC.  
3 Instead, based on the CLEC ETC proceedings reported on the Commission's web site, the Staff  
4 appears to have supported each such CLEC application. Such support is completely at odds  
5 with the excerpt above from Mr. McKinnie's testimony. Indeed, in response to MMC Data  
6 Request Nos. 7.a. and 7.b. (Exhibit 2 hereto), Staff conceded that, compared to the wireless  
7 ETC that provides additional lines to an existing ILEC subscriber, the financial impact when a  
8 CLEC replaces an ILEC line with one of its own is far more detrimental (to the ILEC).<sup>1</sup>  
9 Nevertheless, the Staff has consistently supported CLEC ETC applications while vigorously  
10 opposing MMC's parallel request for ETC status in Mr. McKinnie's rebuttal testimony.

11 Based on its response to another MMC data request, there is substantial doubt whether  
12 Mr. McKinnie even believes his claim that grant of ETC status to additional competitive  
13 carriers could affect the stability of the fund or force each ILEC to receive less support. In its  
14 Data Request No. 8 to Staff, MMC requested specific evidence for this assertion. In response  
15 (Exhibit 2 hereto), the Staff stated that "it was not taking any position on the change in fund  
16 during 2003, but "was *speculating* as to the impact on the amount of universal support  
17 available to incumbent wireline carriers as more competitors continue to receive support from  
18 the fund" (emphasis added). Mr. Schoonmaker also speculates (p. 27, line 13) that the increase  
19 "... in wireless ETC designations ultimately *may* jeopardize the sustainability of the USF fund  
20 for all providers."

21 Q. Both Mr. Schoonmaker (p. 26, line 27) and Mr. Martinez (p. 7, line 28) testify

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<sup>1</sup> In the second sentence of its response to MMC's Data Request No. 7.b., Staff refused to agree that an ILEC would lose its USF support for an existing subscriber line that was captured by a CLEC ETC. While such a loss of support "seems appropriate," the Staff stated that it was "aware that, at least informally, there are discussions at the federal level as to whether this is in fact reality." Notably, Staff provides no authority or documentary support for this alarming declaration that is tantamount to a claim that ILECs are inflating the line counts they submit to the Universal Service Administrative Company. Query whether such a practice, in Staff's view, could affect the stability of the USF?

1 that granting ETC status to wireless carrier has resulted in a dramatic growth in the amount of  
2 funds that competitive ETCs have drawn from the USF. Do these statistics support the  
3 contention that the increase in wireless ETC designations will jeopardize the stability of the fund  
4 for all providers?

5 A. No they do not. The increase in the amount drawn by wireless and/or competitive  
6 ETCs tells only half of the story. Although non-ILEC ETCs are drawing increasing amounts  
7 from the fund, the fund itself is expanding substantially due to the growth in wireless subscribers  
8 and the overall growth in telephone usage. (Remember, wireless subscribers also contribute to  
9 the USF.) In recent quarters, the fund has grown faster than the claims thereon by all carriers.  
10 As a result (and contrary to the implication of the Martinez Rebuttal, p. 7, line 36), the USF  
11 contribution factor has actually **declined** during the last two quarters from 9.5% (third quarter,  
12 2003), to 9.2% (fourth quarter, 2003) to 8.7% (first quarter, 2004). Thus, the rebuttal witnesses'  
13 claim that growth in wireless ETC designations is jeopardizing or destabilizing the fund is  
14 erroneous.

15 Q. Can the grant of ETC status to wireless carriers actually result in savings for the  
16 USF fund?

17 A. Yes it can. The level of USF support required by a traditional ILEC is a function  
18 of that ILEC's costs of providing service. If an ILEC incurs significant costs to deploy a  
19 telephone circuit to meet its carrier of last resort commitments, those costs are incorporated into  
20 the USF support to which the ILEC is entitled. Indeed, as MMC witness Mr. David Jones  
21 testifies, the PSC Staff previously determined that allowing an ILEC to utilize cellular or other  
22 wireless service in connection with its carrier of last resort obligations produced substantial cost  
23 savings for the ILEC. In one instance, MMC's affiliate, MMTC, was allowed to use an MMC  
24 cellular phone to fulfill a carrier of last resort service request, thereby avoiding tens of thousands  
25 of dollars in capital costs to provision a single landline telephone in a remote area. By allowing  
26 the wireless phone and loop to substitute for the landline phone and its extraordinarily expensive

1 cabling and related plant, the PSC Staff obviated the need for the costly facilities to be deployed  
2 and supported by the USF.

3 Q. The rebuttal witnesses in general and Mr. Martinez in particular (p. 8, line 26, and  
4 p. 17, line 21) argue that grant of MMC's application will set a precedent that will induce many  
5 other wireless carriers to seek ETC status from this Commission. Do you agree?

6 A. While it is clear that a case of first impression always sets precedent, the  
7 precedential effect of a grant of ETC status to MMC will be extremely narrow. USF was  
8 established to ensure that customers in rural, high cost and insular areas have access to the same  
9 telecommunications services as urban customers, at a reasonable rate. Accordingly, the public  
10 interest determination that Section 214(e) requires of this Commission and its counterparts  
11 involves consideration of where USF contributions will be used. MMC's FCC CMRS license  
12 and its ETC application are limited to seven rural counties wholly within Missouri. MMC offers  
13 no service in any urban area within Missouri, nor does MMC offer any service outside the state.  
14 Accordingly, granting MMC's instant application would have precedential effect only with  
15 respect to wireless carrier ETC applicants that offer service exclusively to rural areas wholly  
16 within state boundaries. For an ETC applicant that serves both rural and urban areas and/or  
17 whose service area extends beyond Missouri's borders, the Commission would still need to make  
18 a public interest determination that USF support for *that* wireless applicant was consistent with  
19 the principles set forth in Section 254(b) of the Communications Act, specifically ensuring that  
20 consumers in rural, insular and high cost areas have access to telecommunications services and  
21 that USF support was being expended only for such areas within Missouri.

22 CenturyTel witness Martinez demonstrates some awareness of this issue when he testifies  
23 (p.14, line 28) "[t]he problem would arise when one of MMC's customers signs up for wireless  
24 service within MMC's designated rural high cost ETC area but then travels with his or her  
25 cellular handset and makes calls in different service areas across MMC's entire licensed  
26 coverage area which includes non-rural areas and multiple states." Mr. Martinez, however, is

1 utterly mistaken in claiming that MMC's FCC licensed coverage area includes non-rural areas  
2 and extends into multiple states. It is precisely because MMC is licensed to provide service only  
3 in Missouri RSA No. 7 and Ray County, which is entirely rural, high cost and wholly within  
4 Missouri, that the precedential and incentive effects of granting MMC's instant application are  
5 significantly constrained.

6 Q. Regarding the CMRS providers characterized by Mr. Schoonmaker (p. 21, line 7)  
7 as MMC competitors, which of those carriers provide service exclusively to rural areas in  
8 Missouri?

9 A. None of the carriers identified by Mr. Schoonmaker are exclusively rural.  
10 MMC's current competitors in its proposed ETC area are, in fact, the six nationwide CMRS  
11 carriers: AT&T Wireless, Cingular, Nextel, Sprint PCS, T-Mobile, and Verizon Wireless. The  
12 scope and character of their national operations are hardly comparable to MMC's seven county  
13 service in central Missouri. Accordingly, grant of MMC's ETC application will in no way  
14 prejudice the Commission's ability to undertake a broad public interest analysis with respect to  
15 both the need for support and the proper use of USF funds in connection with ETC applications  
16 filed by the six nationwide carriers.

17 Q. Why would an exclusively rural wireless carrier's justification for USF support be  
18 readily distinguishable from that of a national wireless carrier?

19 A. The facilities that the nationwide carriers have deployed in Missouri RSA No. 7  
20 essentially provide coverage only to the major traffic arteries and the most significant population  
21 centers in the seven county area. MMC, which has no licensed service area other than Missouri  
22 RSA No. 7, provides substantially more extensive coverage than the rival nationwide carriers.  
23 Relative to the handful of cells constructed and operated by these carriers, MMC, by contrast,  
24 currently has 26 cell sites in its proposed ETC area, which serve towns as modest as Holden,  
25 Missouri. Moreover, the nationwide competitors offer the same service and rate plans in the  
26 rural counties of Missouri RSA No. 7 that they offer in the Kansas City MSA. Accordingly,

1 since the cost of providing service is higher in the rural markets, the nationwide carriers may be  
2 providing an internal cost support mechanism in the rural counties that they serve. Thus, the  
3 nationwide carriers are supporting a very confined and limited service offering in rural markets  
4 with the capital-intensive service they provide in urban areas. Carriers like MMC lack this  
5 luxury and can serve their high-cost rural markets only with the revenues generated thereby and  
6 USF contributions.

7 Q. Mr. Schoonmaker and Mr. Martinez claim that using LEC costs to establish the  
8 level of USF support available for a wireless carrier is improper. Is that at issue here?

9 A. No. Witnesses Schoonmaker and Martinez are again using MMC's application  
10 proceeding to raise generic, policy objections to the USF process. Such concerns should be  
11 addressed to the U.S. Congress and to the FCC. Granting ETC status to MMC will have no  
12 impact on how the compensation level for wireless ETCs is or should be determined. Moreover,  
13 many LEC associations have voiced an opinion opposite to the Schoonmaker/Martinez position  
14 because CMRS costs on a per subscriber basis may exceed the corresponding LEC support level.  
15 Thus, although the cost of a wireless deployment might be a fraction of wireline costs for a  
16 comparable or identical infrastructure, the corresponding per subscriber comparison may indicate  
17 that the wireless costs are considerably higher because there are substantially fewer wireless  
18 users.

19 Q. Mr. Schoonmaker asserts (p.16, line 13) that granting MMC ETC status will  
20 result in no public interest benefits because such grant will allegedly result neither in MMC rate  
21 reductions or infrastructure increases. Is this correct?

22 A. No. The existing MMC network offers analog and digital CMRS service using  
23 time division multiple access (TDMA) technology. Unfortunately, the two nationwide carriers  
24 using the TDMA technology are migrating to a new digital technology that is incompatible with  
25 TDMA. Accordingly, all equipment vendors, including MMC's, have discontinued developing  
26 additional and enhanced features for TDMA, and will soon terminate support for TDMA

1 entirely. As a result, all TDMA carriers, such as MMC, are being forced to overbuild their entire  
2 networks with new digital technologies. MMC intends to do this using code division multiple  
3 access (CDMA) technology. USF funding will be used in part to support the over-build and  
4 operation of the CDMA network.

5 Q. Are any other carriers offering CDMA service in the market?

6 A. Both Sprint PCS and Verizon are offering CDMA service primarily along the  
7 major traffic arteries. Verizon is presently offering CDMA service from two cell sites; one near  
8 I-70 at Booneville and one in Sedalia. MMC presently operates 26 TDMA cell sites in its  
9 proposed ETC designated area and 27 total TDMA cell sites in its FCC-licensed service area.  
10 MMC intends to deploy CDMA throughout its network to duplicate its TDMA footprint. MMC  
11 will deploy additional CDMA cell sites to fill in coverage holes. The availability of USF support  
12 will directly impact the extent and speed of MMC's CDMA deployment.

13 Q. What are some of the advantages of a full CDMA deployment?

14 A. The wireless industry is deploying enhanced 911 services that connect the  
15 subscriber to the emergency personnel and provide emergency personnel with the location of the  
16 handset placing the calls. CDMA handsets incorporate a GPS chip that enables them to use an  
17 existing satellite network to determine a subscriber's location with a high degree of accuracy.  
18 No handset manufacturer is making that technology available for either analog or TDMA  
19 handsets. As a result, TDMA or AMPS networks must attempt to determine a handset's location  
20 by "triangulating" the handset signal detected by nearby cell sites. While MMC operate more  
21 cell sites than any other wireless carrier in Missouri RSA No 7, the number of cell sites is still  
22 inadequate to meet FCC accuracy requirements using the triangulation technique. In addition,  
23 CDMA technology is also capable of offering data services at much higher data rates.

24 Q. The current MMC analog and TDMA networks were deployed without USF  
25 support. Why can't MMC simply deploy CDMA out of its operating profits?

26 A. The concept of wireless ETCs grew out of the Telecommunications Act of 1996.



1 At roughly the same time, the FCC began licensing additional wireless or CMRS carriers  
2 nationwide by auctioning spectrum in the two GHz band for what is known as Personal  
3 Communications Service ("PCS"); in addition, the FCC allowed Nextel to construct a very  
4 similar mobile, two-way voice network using 800 MHz SMR spectrum. From a consumer's  
5 view, PCS and 800 MHz SMR services are virtually indistinguishable from the cellular service  
6 provided by MMC.

7 When the current MMC network was initially deployed in the early 1990s, there were  
8 only two wireless licensees in a cellular market like Missouri RSA No. 7. Large urban carriers  
9 were not licensed to provide cellular in rural service areas. Accordingly, when an urban carrier's  
10 subscriber roamed in rural markets (principally by initiating, receiving or continuing calls along  
11 the interstate highways in the rural markets), the urban carrier paid considerable roaming fees to  
12 the rural carrier. Rural carriers such as MMC used this roaming revenue to deploy network  
13 infrastructure in the more remote, high cost areas of their markets. With the advent of competing  
14 wireless services, large urban carriers obtained their own rural service area license, which has  
15 enabled them to construct networks that cover the lower-cost higher profit interstate highways  
16 and larger population centers. As a result, those carriers have substantially reduced if not  
17 eliminated the roaming revenues paid to rural-only carriers for roaming that would occur in those  
18 portions of the rural market that tend to generate the most wireless traffic. The ensuing decline  
19 in roaming revenues for MMC and other rural-only wireless carriers has been extreme,  
20 compelling these entities to find other sources of financial support essential to establishing the  
21 most advanced and highest quality wireless technology in the remote, high cost portions of their  
22 service areas. Providing this financial support is precisely the function intended for the USF,  
23 thereby allowing for the offering of comparable services to the truly rural areas at reasonable  
24 costs.

25 Q. Is the public interest advanced in any other ways by the grant of MMC's ETC  
26 application?

1           A.     Yes. The FCC has declared that the availability of mobile telecommunication  
2 services is a distinct benefit to the public. ILEC service, by contrast, is available only at a fixed  
3 location. The benefits of mobility are boldly illustrated by an emergency call situation. Both  
4 ILECs and CMRS carriers route emergency phone calls. An ILEC customer's ability to place an  
5 emergency call is entirely dependent on his or her access to a fixed, wireline telephone. In rural,  
6 remote and low density areas, no wireline phone may be available for an emergency caller.  
7 Immediate access to a wireless handset can often make the difference between life and death.  
8 Widespread wireless availability in rural areas is an irrefutable public benefit.

9           Q.     Mr. Schoonmaker (p. 27, line 18) asserts that granting ETC status to MMC  
10 justifies relaxing or eliminating the regulatory regime imposed on ILECs by state law and by the  
11 Commission. Is this an appropriate issue to be considered in the context of MMC's application?

12          A.     No, it is not. Even Mr. Schoonmaker (p. 28, line 4) appears to recognize that this  
13 case is "not the appropriate forum" to raise ILEC regulation issues, which are plainly outside the  
14 scope of MMC's request for ETC status. Nevertheless, Mr. Schoonmaker is once again using  
15 MMC's application as a platform for raising generalized, policy objections to longstanding  
16 legislative and agency decisions concerning the structure and operation of the USF program.  
17 Mr. Schoonmaker employs the same objectionable tactic when he faults MMC for failing to  
18 agree to abide by Chapters 32 and 33 of the Commission's Rules even though those rules apply  
19 exclusively to wireline carriers. MMC sincerely hopes that the Commission sees through this  
20 smokescreen and disregards the offending rebuttal testimony.

21          Q.     Should the Commission consider the FCC's local number portability requirements  
22 in making the public interest determination required by Section 214(e)(2) of the Communications  
23 Act in connection with MMC's application?

24          A.     Yes, it should. On November 10, 2003, the FCC issued its *Memorandum Opinion*  
25 *and Order and Further Notice of Proposed Rulemaking* in the matter of Telephone Number  
26 Portability, CC Docket No. 95-116 (Released November 10, 2003) ("*Intermodal Porting*

1 *Order*”). In that order, the FCC recognized that each type of service (wireless and wireline) offer  
2 advantages and disadvantages. The FCC further acknowledged that wireless carriers might have  
3 greater opportunities to port wireline customers than *vice versa*, but emphatically stated that  
4 considerations of competitive neutrality did not require identical regulatory schemes for wireless  
5 and wireline number porting. In making this determination, the FCC expressly recognized that  
6 LECs and ILECs encounter more intensive state regulation than wireless carriers but held that  
7 this disparity constituted no basis for limiting or minimizing the porting obligation of wireline  
8 carriers:

9           In our view, it would not be appropriate to prevent wireline  
10 customers from taking advantage of the mobility or the larger local  
11 calling areas associated with wireless service simply because  
12 wireline carriers cannot currently accommodate all potential  
13 requests from customers with wireless service to port their  
14 numbers to wireline service providers...To the extent that wireline  
15 carriers may have fewer opportunities to win customers through  
16 porting, this disparity results from the wireline network  
17 architecture and state regulatory requirements, rather than  
18 Commission rules. (*Intermodal Porting Order* at ¶12).

19       Q.     What other bearing does the *Intermodal Porting Order* have on the MMC ETC  
20 application?

21       A.     MMC has served bona fide request for local number portability on Alma,  
22 Citizens, CenturyTel/Spectra and MMTC. MMC is in the process of also serving such requests  
23 on SBC and Sprint. The *Intermodal Porting Order* stands for the proposition that, absent or  
24 technical engineering considerations, no artificial barriers may be established to block the ability  
25 of a wireline customer to port its number to a wireless carrier. Denying ETC status to MMC,  
26 however, will automatically and arbitrarily preclude existing Lifeline and Link-Up subscribers

1 from porting their wireline numbers to MMC.

2       Only an ETC-designated carrier can provide Lifeline and Link-Up support to eligible  
3 low-income consumers. If MMC were granted ETC status, then existing ILEC Lifeline and  
4 Link-Up subscribers would instantly be able to port their numbers to MMC without jeopardizing  
5 the benefits of these universal service programs and exactly as the *Intermodal Porting Order*  
6 envisions. Denial of MMC's ETC application, by contrast, will result in Lifeline and Link-Up  
7 subscribers being singled out as the only class of ILEC customers for whom the right to port to a  
8 wireless carrier has been denied. Such an outcome violates the FCC's porting rules and its  
9 *Intermodal Porting Order*. The arbitrary denial to low-income ILEC customers of the federally  
10 mandated porting right would also appear to be highly discriminatory and contrary to public  
11 policy. Accordingly, the Commission must safeguard the universal service rights of low income  
12 telecommunications subscribers and avoid any action (*i.e.*, denial of MMC's application) that  
13 will deny to an entire class of subscribers their federally mandated right to port simply because  
14 of their income level.

15       Q.     Does this conclude your testimony?

16       A.     Yes it does.

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 )  
Universal Service Support pursuant to § 254 of )  
the Telecommunications Act of 1996 )

CITY OF WASHINGTON )  
 )  
 DISTRICT OF COLUMBIA ) SS.

20

**EXHIBIT 1**

**STAFF RESPONSE TO MID-MISSOURI CELLULAR  
DATA REQUEST NO. 2.d.**

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**MISSOURI RSA NO. 7 LIMITED PARTNERSHIP  
d/b/a MID-MISSOURI CELLULAR  
SECOND SET OF DATA REQUESTS TO STAFF OF  
MISSOURI PUBLIC SERVICE COMMISSION**

2. Regarding the statement beginning on line 22, page 2 of the Rebuttal Testimony of Adam McKinnie ("McKinnie Rebuttal"), "Section 214(e)(2) of the Act states that before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the State commission shall find that the **designation is in the public interest,**" is it the Staff's position that:

- a. Mid-Missouri Cellular ("MMC") is seeking ETC designation exclusively in areas served by one or more "rural telephone companies," as that term is defined in 47 U.S.C. § 153 (37);

Answer: No, that is not Staff's position.

- b. if your answer to subpart "a." is yes, identify those statements and representations in MMC's Application For Designation As An Eligible Telecommunications Carrier Pursuant To §254 Of The Telecommunications Act Of 1996 ("Application") that support or confirm this answer;

Answer: N/A

- c. if you answer to subpart "b." is no, does Staff agree that, in ruling on MMC's Application, the Commission is bound by the following statement in Section 214(e)(2) of the Act: "Upon request and consistent with the public interest, convenience, and necessity, the State commission . . . shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the State commission, so long as each additional requesting carrier meets the requirements of [Section 214(e)(1)]." (Emphasis added.)

Answer: Yes, Staff agrees this is the case for non-rural exchanges, such as those served by SBC Missouri.

- d. if your answer to subpart "c." is yes, explain whether Staff's opposition to granting ETC status to MMC: (i) applies to the entire area in which MMC requests ETC status as depicted in Appendix D to the Application; or (ii) is limited to only those areas

where the underlying local exchange carrier ("LEC") is a rural telephone company within the meaning of 47 U.S.C. § 153 (37);

Answer: While it is difficult to interpret Appendix D in the Application due to the quality of the scan, Staff's position regarding MMC's not meeting the public interest standard applies to the areas where the underlying carrier is rural; that is, all areas except those served by SBC Missouri.

- e. if your answer to subpart "d." is "(i); provide a detailed basis, including citations to supporting authority, for that answer.

Answer: N/A

3. Regarding the excerpt from the Commission's Order Denying Motion to Dismiss, Setting Prehearing Conference, and Directing Filing of a Proposed Procedural Schedule beginning on line 4, page 3 of the McKinnie Rebuttal, does the reference therein to "small rural incumbent telecommunications carriers" include Southwestern Bell and/or Sprint, either in general or specifically with respect to either carrier's operations in the area in which MMC is seeking ETC designation; if your answer is "yes," provide a detailed explanation of the basis for that answer.

Answer: While it is not clear whether the Commission intended to include Southwestern Bell and/or Sprint as a rural carrier, for purposes of universal service funding, Sprint is considered a rural incumbent local exchange carrier in Missouri.

4. Regarding the statement appearing at page 3, line 17 of the McKinnie Rebuttal ("Staff acknowledges that other states and the FCC have made public interest findings when granting ETC status to wireless carriers;"):

- a. identify each and every grant of ETC status to wireless carriers to which the cited statement refers by providing: (i) the name of the wireless carrier receiving ETC status; (ii) case name and case and/or docket number; (iii) date the order granting ETC status was adopted, released, entered, etc.; (iv) a formal legal citation to the official reporter in which the order was published; and (v) a hard copy of the order granting ETC status for any such order that has not been published in an official reporter;

Answer: Sprint PCS, Washington Docket UT-031558, order dated 10-29-03; Western Wireless for the state of Wyoming, Federal Docket DA 00-2896, order dated 12-26-00; GCC License Corporation for South Dakota, Docket 2001 SD 32, order dated 3-14-01. (Hard copies forthcoming).



**EXHIBIT 2**

**STAFF RESPONSE TO MID-MISSOURI CELLULAR  
DATA REQUESTS NOS. 7.a., 7.b and 8**

- b. for each order identified in subpart "a.," provide the page and paragraph numbers where the discussion of the public interest findings begins;

Answer: Sprint PCS Order: Page 5, Paragraph 8; Western Wireless Order: Paragraphs 1, 7, and 16; GCC Order: Paragraphs 22, 23-25, 26.

- c. since Mr. McKinnie has testified on behalf of the Staff that he is unaware of any state of Federal proceeding "that specifically defines standards to be used when making a public interest finding," is it the Staff's view that each of the orders identified in the response to subpart "a" above was decided erroneously; explain your answer

Answer: It is not Staff's position that any of the above decisions were decided erroneously; rather, Staff has been unable to find any documentation of the standards utilized by the appropriate Commission for the public interest finding.

5. Identify decisions by state public utility (and/or public service) commission denying petitions by wireless carriers for ETC status in areas where the LEC serving the subject area was not a rural telephone company. For each such decision so identified, provide the information requested in DR 3, subparts "a" and "b."

Answer: see Staff objection.

6. Identify each and every FCC decision that denied in whole or in part an application or petition by a wireless carrier for ETC status.

Answer: see Staff objection.

7. Does the Commission Staff agree or disagree that:

- a. if an ETC-designated CLEC acquires a subscriber line previously served by an ILEC, then the ILEC loses both the monthly revenue generated by that subscriber line *and* the support for that subscriber line provided by the USF;

Answer: Staff agrees that the ILEC will lose the revenue for the aforementioned subscriber line. While it seems appropriate for the ILEC to lose the monthly revenue received from the support for that subscriber line provided by the USF, Staff is aware that, at least informally, there are discussions at the federal level as to whether this is in fact reality.

- b. if an ETC-designated wireless carrier either provides an additional line (or lines) to an existing ILEC subscriber or provides a new line (or lines) to a presently unserved customer, then the subject ILEC loses neither subscriber revenue nor USF support.

Answer: Staff agrees that a customer currently receiving service from no telecommunications company or receiving a an additional line from an ETC-designated wireless carrier will not decrease the amount of support an ILEC will receive from the USF or presumably will not decrease subscriber revenue.

8. Explain and provide evidence for the assertion in the McKinnie Rebuttal (page 6, lines 10-13) that if more companies request support from the USF then the stability of the USF could be affected and could force each ILEC to receive less support. During 2003, has the number of companies requesting support from USF increased or decreased. Is it the Commission Staff's position that USF stability has declined, increased or remained unchanged during 2003; provide evidence for your answer. Is it the Commission Staff's position that the amount of USF support received by ILECs has declined, increased or remain unchanged during 2003; provide evidence for your answer.

Answer: To Staff's knowledge this information is publicly available on the website of the Universal Service Administrative Company. Staff was not taking any position on the change in fund during 2003, but was speculating as to the impact on the amount of universal support available to incumbent wireline carriers as more competitors continue to receive support from the fund.

9. Aside from Mid-Missouri Telephone Company, does any other LEC or ILEC certificated by the Commission have a "corporate relationship" (as that term is used in the McKinnie Rebuttal (page 7, line 9)) with a wireless carrier licensed by the FCC to provide service in Missouri. If so, identify the related carriers and describe the relationship.

Answer: Please note Staff objection to this question.

10. Referring to the McKinnie Rebuttal (pages 8-9), which discusses: (a) certain accounting and administrative services performed on behalf of MMC by Mid-Missouri Telephone Company ("MMTC") and for which MMC paid MMTC; (b) lease agreements between MMC and MMTC for land, buildings, tower space for a cell site and for which lease payments were made by MMC to MMTC; (c) use of MMTC's computer by MMC and for which MMC paid MMTC; and (d) charges for MMTC circuits that MMC paid to MMTC--- for each of the referenced payments made by MMC to MMTC describe in detail Staff's understanding of how such payments are accounted for by MMTC with respect to their periodic reporting of costs and expenses to the Universal