

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

Application of USCOC of Greater	)	
Missouri, LLC for Designation as an	)	
Eligible Telecommunications Carrier	)	Case No. TO-2005-0384
Pursuant to the Telecommunications	)	
Act of 1996	)	

**RESPONSE TO AUGUST 14, 2006 ORDER**

COME NOW Intervenors, Spectra Communications Group, LLC d/b/a CenturyTel and CenturyTel of Missouri, LLC (collectively “CenturyTel”), pursuant to the Commission’s Order issued on August 14, 2006 in the above-captioned cause, and for their *Response to Order Directing Response to Compliance Filing*, respectfully state as follows:

1. In its *Order Directing Response to Compliance Filing* issued on August 14, 2006 the Commission directed each party to file a pleading indicating whether it wished to cross-examine U.S. Cellular’s witness about U.S. Cellular’s August 11, 2006 supplemental submission, whether it wished to present additional evidence on its own, and whether it wished to present additional argument.

2. CenturyTel’s answer is definitely yes on all counts, unless of course the Commission disposes of this case by rejecting U.S. Cellular’s Application based on the existing evidentiary record.<sup>1</sup>

3. Because of U.S. Cellular’s supplemental submission, the previously hypothetical situation warned of by CenturyTel in this and in prior cases has now arrived. The Commission currently has pending before it for decision the ETC applications of

---

<sup>1</sup> CenturyTel obviously would and does object to *granting* U.S. Cellular’s Application based on the receipt into the evidentiary record of U.S. Cellular’s supplemental submission without providing the other parties the opportunity to present their own evidence, provide additional argument, and cross-examine U.S. Cellular’s sponsoring witness at hearing.

Northwest Missouri Cellular Limited Partnership<sup>2</sup> and Missouri RSA No. 5 Partnership<sup>3</sup>. These cases have been heard and briefed. The respective ETC service areas sought by those ETC applicants in large part overlap portions of the ETC service area sought by U.S. Cellular in this case. This necessarily raises the issue of how the Commission is to appropriately address competing wireless ETC applicants for the same wire centers<sup>4</sup>.

4. Moreover, in both of the other two ETC cases the Commission will be applying—without objection of the applicants--the provisions of its new ETC rule which became effective on June 30, 2006 even though those applicants' respective applications, like that of U.S. Cellular, were filed prior to the effective date of the Commission's new ETC rule. The ETC applicants in those cases sought and received additional time for the stated purpose of supplementing their pre-filed testimony to at least attempt to demonstrate compliance with the rule.

5. In this case, based on U.S. Cellular's supplemental submission it is unclear whether U.S. Cellular agrees that the Commission should here apply the provisions of its new ETC rule.

6. U.S. Cellular's lack of clarity on this issue is problematic. If, on the one hand, U.S. Cellular agrees that the Commission should apply its ETC rule in this case, then U.S. Cellular's Application can be denied without the need for further proceedings. Based on U.S. Cellular's August 11, 2006, U.S. Cellular itself apparently believes that no further proceedings are needed and that it has submitted all that is required. However,

---

<sup>2</sup> Case No. TO-2005-0466.

<sup>3</sup> Case No. TO-2006-0172.

<sup>4</sup> In terms of comparing the cases made by the various applicants, one issue previously raised during the hearing involved the fact that U.S. Cellular has significant operations outside the state of Missouri and does not use a Missouri-specific budget or prepare or utilize Missouri-specific financial information. This was not an issue in the other two ETC cases as those wireless companies operate only in Missouri.

even a cursory *sua sponte* review by the Commission of the evidentiary record and U.S. Cellular's supplemental submission should reveal that U.S. Cellular has not complied with all the provisions of the Commission's ETC rule. If further proceedings are ordered by the Commission, however, U.S. Cellular's supplemental submission should be treated by the Commission as supplemental direct testimony. The other parties then are likely to address what they believe to be the deficiencies with U.S. Cellular's supplemental direct, in light of the ETC rule's provisions, through the filing of supplemental rebuttal testimony. Regardless of whether U.S. Cellular is then permitted to file surrebuttal, U.S. Cellular in further proceedings at least should be bound by its existing submissions and not be allowed to further supplement or modify its direct case-in-chief with respect to compliance with the ETC rule. There can be no argument that U.S. Cellular was unaware of the rule or that it was not given adequate opportunity previously to supplement its original case accordingly.<sup>5</sup>

7. If, on the other hand U.S. Cellular is taking the position that the Commission cannot and should not apply the ETC rule in this case<sup>6</sup>, then at least two obvious problems arise. First, this necessarily and as a practical matter means that U.S. Cellular is requesting different treatment, and the application of different standards, than those currently being applied to other ETC applicants. At minimum, this approach violates any notions of parity and nondiscriminatory regulatory treatment among ETC applicants. Second, if the rule somehow is not applicable to determine whether U.S. Cellular's ETC designation should be granted in the first instance, on what basis does it magically

---

<sup>5</sup> U.S. Cellular was an active participant in the ETC rulemaking. The content and the timing of U.S. Cellular's supplemental submission was entirely within U.S. Cellular's discretion. The Commission's March 21, 2006 Order set no filing deadline on U.S. Cellular.

<sup>6</sup> The Commission understandably could conclude this based on U.S. Cellular's prior arguments and the language used in U.S. Cellular's supplemental submission.

become applicable later when U.S. Cellular comes back for its annual certification? Is it because U.S. Cellular at hearing has stated that is willing to comply with the ETC rule sometime *after* it receives ETC status? If so, then the Commission is exercising its regulatory authority over the annual certification process only with the permission of U.S. Cellular *and* U.S. Cellular will have escaped the same level of scrutiny currently being imposed on its wireless ETC applicant competitors as they seek ETC status in the same wire centers sought by U.S. Cellular.

8. Even if the Commission is precluded from applying the ETC rule to U.S. Cellular's Application, and regardless of the practical problems this creates, the Commission nevertheless still will need to decide the ultimate question of whether the grant of U.S. Cellular's ETC request is in the public interest. To the extent the Commission is reluctant to simply deny U.S. Cellular's Application, CenturyTel submits that U.S. Cellular's supplemental submission raises numerous new issues relevant to this fundamental question which warrant the submission by the other parties of additional testimony and argument, cross-examination of U.S. Cellular's sponsoring witness, and a further evidentiary hearing in this proceeding.

9. Assuming that the Commission orders further proceedings, a reasonable time for discovery respecting U.S. Cellular's supplemental submission likely will be required by some or perhaps all of the parties. Accordingly, adequate time for same should be included in any procedural schedule that the Commission might order.

WHEREFORE, CenturyTel respectfully requests that the Commission schedule further proceedings in this case as outlined above, or in the alternative, reject U.S. Cellular's Application.

Respectfully submitted,

**/s/ Charles Brent Stewart**

---

Charles Brent Stewart, MoBar #34885  
STEWART & KEEVIL, L.L.C.  
4603 John Garry Drive, Suite 11  
Columbia, Missouri 65203  
(573) 499-0635  
(573) 499-0638 (fax)  
[Stewart499@aol.com](mailto:Stewart499@aol.com)

ATTORNEY FOR SPECTRA  
COMMUNICATIONS GROUP, LLC, d/b/a  
CENTURYTEL and CENTURYTEL OF  
MISSOURI, LLC

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing document has been served on counsel for all parties of record in Case No. TO-2005-0384 by electronic transmission this 1<sup>st</sup> day of September, 2006.

**/s/ Charles Brent Stewart**

---