

**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 for Federal Universal Service)	<u>Case No. TO-2003-0531</u>
Support Pursuant to Section 254)	
of the Telecommunications Act of 1996.)	

**RESPONSE
OF
SPECTRA COMMUNICATIONS GROUP, LLC dba CENTURYTEL
AND CENTURYTEL OF MISSOURI, LLC
IN OPPOSITION TO STAFF'S MOTION TO DISMISS**

COME NOW Spectra Communications Group, LLC d/b/a CenturyTel ("Spectra") and CenturyTel of Missouri, LLC ("CenturyTel") (collectively referred to herein as "Respondents"), pursuant to 4 CSR 240-2.080(15), and for their Response in Opposition to Staff's Motion to Dismiss ("Response") respectfully state as follows:

1. Spectra and CenturyTel, concurrent herewith, have timely filed their Application to Intervene in this matter pursuant to the Commission's Order Directing Notice of June 5, 2003. As fully set forth in their Application, Respondents oppose the relief sought by Missouri RSA No. 7 Limited Partnership d/b/a Mid-Missouri Cellular ("MMC") in its application for designation as an eligible telecommunications carrier with respect to federal universal service support under Section 254 of the Telecommunications Act of 1996. To date, separate Applications to Intervene have been filed in this matter by Alma Communications Company, d/b/a Alma Telephone Company ("Alma"), and Citizens Telephone Company of Higginsville, Missouri ("Citizens").

2. On June 13, 2003, the Staff of the Missouri Public Service Commission filed its Motion to Dismiss for lack of subject matter jurisdiction, wherein the Staff “concludes that the Commission lacks the necessary subject matter jurisdiction to grant ETC designation to cellular carriers since the facilities and services of CMRS carriers are exempted from the jurisdiction of the Commission. Accordingly, the Staff moves for the Commission to dismiss MMC’s application and to state explicitly in its order that the Commission lacks subject matter jurisdiction over CMRS carriers and, therefore, lacks the authority to approve or reject the ETC petition of MTC.”¹

3. While Respondents have moved to intervene in opposition to the relief requested by MMC in this matter, Respondents respectfully oppose the Staff’s motion to dismiss MMC’s Application. As Respondents, Alma, Citizens and OPC point out, this application involves the certification of an additional eligible telecommunications company in a service area served by rural telephone companies. Thus, the Commission must not only find that MMC meets the eligibility requirements of § 214 (e)(1), but it also must find that designating MMC as an ETC meets the public interest criterion set forth in § 214(e)(2) of the Act. Further, whereas MMC appears to seek designation as an ETC in an area that deviates from both Spectra’s and Mid-Missouri Telephone Company’s study areas, federal law requires at 47 U.S.C. § 214(e)(5) that, “In the case of an area served by a rural telephone company, ‘service area’ means such company’s ‘study area’ unless and until the Commission [FCC] and the States, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c) of this title, establish a different definition of service area for such company.” (emphasis added.)

¹ Motion to Dismiss at 4.

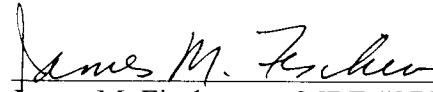
Indeed, MMC submits that the requisite determinations to be made pursuant to the Act, should be made by this Commission.²

4. As MMC states in its Application, “. . . no CMRS carrier has sought designation from the Commission as an Eligible Telecommunications Carrier (“ETC”). For that reason, the instant application represents a case of first impression for the Commission.” Respondents respectfully submit that this Commission is best situated to make the critical determinations as to whether the designation of MMC as an ETC is “consistent with the public interest, convenience and necessity,” and to make an express finding that such designation is in the public interest. Substantive public policy determinations regarding end-user and competitive impacts, as well as the interests of regulated incumbent local exchange carriers in providing basic local exchange service to the customers located within their service areas, will be addressed in this proceeding. Consequently, this Commission must consider the substantial and competent evidence that will be presented in this proceeding, and make findings and conclusions based upon that evidence.

² “It may be argued that MMC must obtain a determination from the FCC pursuant to Section 54.207 of the FCC’s Rules authorizing MMC to be designated an ETC in an area that deviates from MMTc’s study area. MMC respectfully submits, however, that the requisite determination may be made by this Commission pursuant to §214 (e)(2) of the act, which states: . . . ” Application For Designation As An Eligible Telecommunications Carrier Pursuant to § 254 Of The Telecommunications Act of 1996, page 10.

WHEREFORE, Spectra Communications Group, LLC d/b/a CenturyTel and CenturyTel of Missouri, LLC respectfully request that the Commission deny Staff's Motion To Dismiss filed in this matter on June 13, 2003.

Respectfully submitted,


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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been hand-delivered, transmitted by e-mail or mailed, First Class, postage prepaid, this 18th day of June, 2003, to:

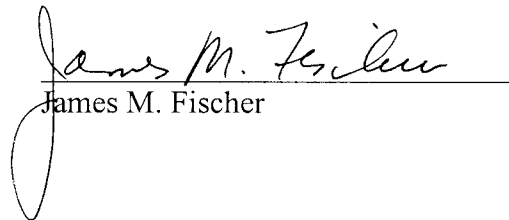
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