

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

In the Matter of the Application of T-Mobile Central)
LLC for Designation as an Eligible Telecommunications) **File No. RA-2012-0195**
Carrier for Purposes of Low Income Support Only)

STAFF RECOMMENDATION AND REQUEST TO FILE OUT OF TIME

COMES NOW the Staff of the Missouri Public Service Commission and for its request, states as follows:

1. On December 22, 2011, T-Mobile Central LLC (“the Company”), a wireless carrier, filed an application with the Missouri Public Service Commission seeking designation as an Eligible Telecommunications Carrier (“ETC”) for the purpose of receiving federal universal service fund support for low income customers through Lifeline and Link Up programs (on March 30, 2012, the Application was revised to only relate to Lifeline service, as the FCC had eliminated the Link Up program). That Application included the following:

4. T-Mobile does not have any pending actions or final unsatisfied judgements or decisions against it from any state or federal agency or court relating to customer service or rates, which action, judgment or decision has occurred within (3) years of the date of this Application except for the following: [*Marple and Worrell v. T-Mobile*].

In a later amendment to the Application (filed March 30, 2012), the Company noted:

T-Mobile receives revenue from several non-USF sources, is currently a Lifeline service provider in numerous states, and has not been subject to ETC enforcement or revocation proceedings in any state.

2. In responses to Data Requests propounded by the Staff, the Company notes several instances of regulatory enforcement actions that were or are pending during the pendency of this Application or in the three years preceding filing. In addition to the inconsistent statements included in its Application, the actual substance of the enforcement actions and investigations, more fully described in the attached Staff Memorandum have caused the Staff to

question whether granting ETC status to T-Mobile in Missouri at this time is in the public interest.

3. The Staff notes that this Recommendation was due to the Commission yesterday, April 30, 2012. The Staff apologizes for any inconvenience its tardiness may cause the Commission or the Regulatory Law Judge, and asks that the Commission accept this filing out-of-time.

WHEREFORE, the Staff requests that the Commission accept this untimely filing and the Staff recommends that the Commission not grant ETC status to T-Mobile Central LLC until such time as the Company's statement in paragraph 4 of its Application can be demonstrated to be true.

Respectfully submitted,



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Missouri Public Service Commission
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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 1st day of May, 2012.



MEMORANDUM

To: Missouri Public Service Commission Official Case File
Case No. RA-2012-0195
Company Name: T-Mobile Central LLC

From: Dana Parish
Telecommunications Department

John Van Eschen (4/30/12) Cully Dale (4/30/12)
Utility Operations Division General Counsel's Office

Subject: Staff Recommendation Regarding T-Mobile Central, LLC's Application for ETC
Status on a Wireless Basis

Date: April 30, 2012

On December 22, 2011 T-Mobile Central LLC (T-Mobile) filed an application with the Missouri Public Service Commission (PSC) seeking designation as an Eligible Telecommunications Carrier (ETC) in Case No. RA-2012-0195. The application was for the purpose of receiving federal universal service fund support for low income customers exclusively.

The Staff has reviewed the ETC application and supplements to the application submitted by the company; as well as responses to data requests issued to the company in Case No. RA-2012-0195.

The company's data request responses and application supplements note findings from the Kansas Corporation Commission (KCC), the Federal Communications Commission (FCC) and the Universal Service Administrative Company (USAC) that cause concern. The following items, mentioned in T-Mobile's reply to data request 0001 and the 2nd supplement to ETC Application, cause concern for Staff:

- In April 2008, USAC found that T-Mobile improperly complied with USF-related regulations during Hurricane Katrina. T-Mobile filed an appeal of the audit findings with the FCC in February 2009. This appeal is still pending.
- In response to an audit of the Kansas USF, the KCC issued an Order Adopting Audit Report Recommendations, directing T-Mobile to comply with recommendations and assessing penalties. On September 21, 2011, the KCC adopted a Stipulated Settlement Agreement signed by KCC Staff and T-Mobile. The December 30, 2010 and September 21, 2011 orders assessed penalties totaling \$15,000 to T-Mobile for failure to timely comply with certain requirements related to the KUSF.
- On December 20, 2011, the KCC issued an order assessing a \$500 penalty against T-Mobile for failure to timely file a KUSF audit report. T-Mobile filed the report 18 days late and paid the \$500 penalty. This docket has been closed.

- T-Mobile, as well as other ETCs, has an outstanding order imposing fines for alleged failure to meet reporting requirements of the Puerto Rico Telecommunications Regulatory Board (TRB). This order imposed \$10,000-\$15,000 in fines for alleged failure to comply with certain new reporting requirements pursuant to recently approved emergency regulations. Fines have been held in abeyance pending ETCs' compliance with new monthly reporting requirements. TRB ruled that if T-Mobile files the monthly reports on time, the Board will eliminate the fines. This proceeding is currently pending.
- On March 28, 2008, the FCC issued an Order Adopting a Consent Decree entered into between the FCC Enforcement Bureau and T-Mobile, terminating an investigation by the Enforcement Bureau against T-Mobile for possible violations of Part 4 of the FCC's rules regarding the reporting of network outages and T-Mobile's apparent violations for failing to timely notify the FCC of an outage that occurred in Salt Lake City, Utah on March 24, 2007 within the required two hours. The Consent Decree expired on March 28, 2010, whereby T-Mobile voluntarily contributed \$250,000 as part of the Decree. This item has been closed.
- On January 15, 2009, the FCC issued an Order adopting a Consent Decree entered into between the FCC Enforcement Bureau and T-Mobile, terminating the Bureau's investigation into whether T-Mobile violated section 1.1307(a)(4) of the FCC's Rules by constructing a wireless communications facility in Pennsylvania and New Mexico without notifying the State Historic Preservation Officers prior to the construction of the facility. The Consent Decree expired on January 15, 2011. T-Mobile voluntarily contributed \$25,000 as part of the Decree. This item has been closed.
- On April 13, 2012, the FCC released a Notice of Apparent Liability for Forfeiture, in which it proposed a monetary forfeiture in the amount of \$819,000 against T-Mobile for apparent violations of the FCC's rules requiring a certain number of percentages of its wireless handsets to be hearing aid compatible. The violations occurred between November 2009 and December 2010. This item is currently open.

The company's verified application, paragraph 4 states: "T-Mobile does not have any pending actions or final unsatisfied judgements or decisions against it from any state or federal agency or court relating to customer service or rates, which action judgment or decision has occurred within three (3) years of the date of this Application except for the following: Susan Marple and Stephanie Worrell v. T-Mobile Central LLC..." However, as indicated above, in response to data requests and in its supplemental application, T-Mobile identifies several instances where its practices, or the practices of an affiliate, have come into question and been subject to penalties or other monetary settlement. Some of these practices are directly related to state or federal universal service fund requirements. The various instances of alleged and settled non-compliance noted above cause Staff to question T-Mobile's commitment to comply with Missouri ETC and USF regulations, and ultimately to question whether the grant of ETC status is in the public interest. Therefore, the Staff does not recommend approval for ETC status until its concerns can be further addressed.

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Central LLC for Designation as an Eligible)
Telecommunications Carrier for Purposes of) Case No. RA-2012-0195
Low Income Support Only)

AFFIDAVIT OF DANA PARISH

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Dana Parish of lawful age, on oath states: that she participated in the preparation of the foregoing Staff Recommendation in memorandum form, to be presented in the above case; that the information in the Staff Recommendation was provided to her; that she has knowledge of the matters set forth in such Staff Recommendation; and that such matters are true to the best of her knowledge and belief.



Dana Parish

Subscribed and sworn to before me this 1st day of May, 2012.

LAURA HOLSMAN
Notary Public - Notary Seal
State of Missouri
Commissioned for Cole County
My Commission Expires: June 21, 2015
Commission Number: 11203914



Notary Public