

BEFORE THE PUBLIC SERVICE COMMISSION  
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	)	Case No. TO-2005-0325
Company Carrier Eligible for Federal Universal	)	
Service Support pursuant to § 254 of the	)	
Telecommunications Act of 1996.	)	

**MID-MISSOURI CELLULAR STATEMENT OF POSITION**

COMES NOW Missouri RSA No. 7 Limited Partnership d/b/a/ Mid-Missouri Cellular (“MMC”) and files its statement of issue and position.

**Issue 1.** Telecommunications companies seeking eligible telecommunications carrier (“ETC”) status must meet the requirements of Section 214(e)(1) of the Telecommunications Act of 1996 (“the Act”) 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 the charges therefor 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?*

**MMC POSITION:**

MMC meets the requirements of Section 214(e)(1) throughout the service area for which MMC seeks ETC designation.

**Issue 2.** ETC designations by a state commission must be consistent with the public interest, convenience and necessity pursuant to Section 214(e)(2) of the Act. The

Federal Communications Commission has 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?*

**MMC POSITION:**

Granting ETC status to MMC in the areas proposed in its subject application, including areas served by both rural and non-rural telephone companies, is in the public interest because, *inter alia*, it will: (a) enhance consumer welfare by increasing consumer choice and by promoting innovative services and technology; (b) result in the ability of MMC to offer low cost ILEC-Equivalent calling on a wireless network, (c) allow Lifeline support for wireless services that will provide an eligible subscriber complete mobility within the reliable service area(s) of the cell site(s) serving the subscriber's residence, plus the ability to make an E911 call anywhere in the United States; (d) enable existing wireline Lifeline customers within MMC's ETC-designated area to transfer their Lifeline service and to port their existing telephone numbers to MMC simultaneously in accordance with FCC policy; (e) allow for the use of less expensive wireless technology to meet carrier of last resort obligations thus reducing the burden carriers impose on the USF; (f) extend the availability of E911 Phase II-compatible wireless services to the more-rural portions of MMC's service area in rural Missouri; (g) allow for enhancement of the MMC network in the rural service area that would not be possible without USF support; and (h) allow the benefits associated with mobility to be extended throughout the MMC proposed ETC service area. MMC is a rural-only wireless carrier providing service wholly within the state of Missouri, and has demonstrated the intent to use USF support for tangible network

technology upgrades exclusively in the ETC area and allow the rural citizens of Missouri to benefit from the use of USF support to enhance rural wireless networks just as the citizens of 37 other states, Guam, Puerto Rico and the Virgin Islands are currently benefiting.

**Issue 3.** Should the guidelines approved by the Federal Communications Commission in its *ETC Report and Order* be applied to the application filed by MMC?<sup>1</sup>

**MMC POSITION:**

The guidelines approved by the FCC in the *ETC Report and Order* are presently under review by the FCC. Numerous parties, including representatives from both the wireline and the wireless industries, have sought reconsideration of and questioned the legality of those guidelines. In addition, the FCC itself has yet to apply those guidelines to any ETC case (even orders issued after the date of adoption of those guidelines). Accordingly, MMC believes that its instant ETC application should be decided consistent with established FCC precedent and that the MoPSC should, through formal rulemaking, adopt its own procedures, consistent with the applicable statutes, FCC regulations and the principles of Universal Service; making any subsequently-adopted rules applicable to *all* pre-existing ETCs allowing for a reasonable period for compliance.

Without prejudice to the foregoing, should the MoPSC decide to consider the FCC guidelines (which the FCC itself acknowledges that state commissions are not required to do), the MMC application should be found to meet those guidelines. To the extent that the MoPSC were to interpret the FCC guidelines as requiring something more or different than

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<sup>1</sup> *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, FCC 05-46, released March 17, 2005 (“ETC Report and Order”).

MMC has submitted in its application<sup>2</sup>, as the FCC itself has done in adopting those guidelines, the MoPSC should allow any required supplemental showings to be submitted as part of the annual reporting process envisioned under those guidelines and not use any perceived deficiency as a basis for denying the MMC ETC application. This is particularly significant given that any one or more of those guidelines, currently under review, may yet be modified, deleted or found to be illegal. The MoPSC should therefore not use suggested guidelines that have yet to be adopted by any final order of the FCC, as the basis to deny an ETC application.

WHEREFORE, MMC respectfully requests that the Commission accept its issues and position statement.

Respectfully submitted,

LATHROP & GAGE L. C.

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**ATTORNEYS FOR MISSOURI RSA No. 7  
LIMITED PARTNERSHIP  
d/b/a MID-MISSOURI CELLULAR**

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<sup>2</sup> Given that the FCC has yet to interpret these guidelines, interpretations by state commissions may well prove to be inconsistent with the FCC's underlying intent; which intent will become clear only after the FCC has itself applied and interpreted these guidelines; assuming they remain in place after legal review.

## **CERTIFICATE OF SERVICE**

I do hereby certify that a true and correct copy of the foregoing Statement of Position has been hand-delivered, transmitted by e-mail or mailed, First Class, postage prepaid, this 27th day of July, 2005, to:

<u><b>Name of Company Name of Party</b></u>	<u><b>Email Phone Fax</b></u>	<u><b>Mailing Address</b></u>	<u><b>Street Address</b></u>	<u><b>City</b></u>	<u><b>State</b></u>	<u><b>Zip</b></u>
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*/s/ Paul S. DeFord*  
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