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BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

PREHEARING CONFERENCE

September 22, 2006

Jefferson City, Missouri

Volume 3

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

MORRIS L. WOODRUFF, Presiding
DEPUTY CHIEF REGULATORY LAW JUDGE.
LINWARD "LIN" APPLING,
COMMISSIONERS.

REPORTED BY:
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1 P R O C E E D I N G S

2 JUDGE WOODRUFF: Good morning everyone. We're
3 here for a prehearing conference in Case No. TO-2005-0384.
4 And we're going to begin today by taking entries of appearance
5 beginning with US Cellular.

6 MR. STEINER: Appearing on behalf of US
7 Cellular, Roger W. Steiner, law firm of Sonnenschein Nath and
8 Rosenthal, 4520 Main Street, Suite 1100, Kansas City, Missouri
9 64111.

10 JUDGE WOODRUFF: Thank you.

11 And for Staff?

12 MR. HAAS: Good morning. William K. Haas
13 appearing on behalf of the Staff of the Public Service
14 Commission. My address is Post Office Box 360, Jefferson
15 City, Missouri.

16 JUDGE WOODRUFF: Thank you.

17 And for Public Counsel?

18 MS. BAKER: Christina Baker, address PO Box
19 2230, Jefferson City, Missouri 65102 appearing for the Office
20 of Public Counsel and for the public.

21 JUDGE WOODRUFF: Welcome, Ms. Baker. It's the
22 first time we've met, I believe.

23 MS. BAKER: I believe so, yes.

24 JUDGE WOODRUFF: I heard that they hired new
25 counsel, so --

1 MS. BAKER: Four whole weeks.

2 JUDGE WOODRUFF: Nice to meet you.

3 MS. BAKER: Thank you.

4 JUDGE WOODRUFF: For AT&T Missouri?

5 MR. GRYZMALA: Yes, good morning. This is Bob
6 Gryzmala on behalf of Southwestern Bell Telephone, LP, d/b/a
7 AT&T, Missouri. That's one AT&T Center, Room 3516, St. Louis,
8 Missouri 63101.

9 JUDGE WOODRUFF: Thank you.

10 And for CenturyTel/Spectra.

11 MR. STEWART: Yes. Appearing on behalf of
12 Spectra Communications Group, LLC, and CenturyTel of Missouri,
13 LLC, Charles Brent Stewart of the law firm of Stewart and
14 Keevil, LLC, 4603 John Garry Drive, Suite 11, Columbia,
15 Missouri 65203.

16 And, Judge, I do have two requests that I
17 would either make now or at least before we get off the
18 record.

19 JUDGE WOODRUFF: Okay.

20 And for Small Telephone Company Group?

21 MR. ENGLAND: Thank you, your Honor. Let the
22 record reflect the appearance of W.R. England and Brian
23 McCartney on behalf of the Small Telephone Company Group who
24 are specifically listed on our written entry of appearance.
25 Our mailing address is Brydon, Swearngen and England, Post

1 Office Box 456, Jefferson City, Missouri 65012.

2 JUDGE WOODRUFF: All right. Thank you.

3 I believe that's all the parties.

4 The primary reason I asked you here today was
5 so you can discuss how to proceed in this matter. Before we
6 get to that larger question, Mr. Stewart, you had something
7 you wanted to bring up.

8 MR. STEWART: Sure. Thank you, your Honor. I
9 first received US Cellular's response and proposed procedure
10 for this case yesterday afternoon, which obviously was less
11 than 24 hours prior to this prehearing.

12 Accordingly, we haven't had time to review or
13 even discuss what our position might be. We filed a pleading
14 on September the 1st pursuant to the Commission's order. Had
15 US Cellular filed its response within the 10-day period
16 provided for in the Commission rules, I think the parties here
17 today could have been in a better position to fully discuss
18 and possibly even agree to a procedural schedule.

19 As things currently stand, I'm not sure just
20 how productive today's prehearing is going to be. To the
21 extent that this causes -- or may cause a delay of the case,
22 I'd submit to you that it's US Cellular's own making.

23 Not only did US Cellular delay making its
24 supplemental submission on August 11th when the Commission's
25 order was issued back in March, US Cellular also waited until

1 less than 24 hours before today's prehearing to file its
2 response to our September 1st filing. And now apparently
3 based on what they filed, expects the other parties to have a
4 productive prehearing.

5 To further complicate the situation, and this
6 is not in control of US Cellular, as everyone knows, the
7 Commission yesterday issued orders in the Northwest Missouri
8 and MO5 ETC cases. These orders were available only after
9 5:00 p.m. yesterday. And, again, we haven't had time to
10 review those.

11 Because of all this, at this point I'd like to
12 request that at minimum, the parties be given the 10 days
13 allowed in the Commission's rule to consider and file a
14 written reply to US Cellular's September 21st pleading.

15 I also have one more request. Even with
16 US Cellular's filing of yesterday, at least to me, it still
17 remains unclear whether US Cellular believes that the
18 Commission's ETC rule should be applied to its application,
19 US Cellular's application. The other ETC applicants clearly
20 agreed that the rule did apply, even though like US Cellular,
21 they had filed their applications prior to the rule becoming
22 effective.

23 So I guess my request is pretty simple. In
24 the interest of removing this possible issue in the
25 proceeding, I'd ask US Cellular's counsel to now state on the

1 record whether US Cellular believes that the rule applies to
2 US Cellular's application, yes or no. Frankly, I believe the
3 Commission and the parties need to know this -- need to know
4 the answer to this threshold question before we can proceed to
5 sort out how we want to go along further in this case.

6 JUDGE WOODRUFF: Mr. Steiner, if you'd like to
7 respond.

8 MR. STEINER: US Cellular has no objection to
9 written responses to its response to the request for
10 additional proceedings. Apologize for having a late filing.
11 Wanted to get it on the record what our position was before
12 the prehearing, knew that issue would be discussed.

13 I guess we were kind of taken aback by how
14 quickly the prehearing conference was scheduled after the
15 September 1st pleadings. And I guess for a while there we
16 thought there probably was going to be a hearing because it
17 says prehearing conference, but we thought about it some more
18 and just took a while to get that information together and get
19 an affidavit together. So again, we have no objection to
20 that.

21 As far as the ETC rules application, I'm not
22 sure it matters what US Cellular says. It matters what the
23 Commission says. I think our pleading is quite clear that
24 there's enough in the record now to meet all the requirements
25 of the rule.

1 MR. STEWART: Well, the reason that I
2 requested that US Cellular state its position, frankly, that's
3 going to determine how we would respond in -- whether there's
4 a hearing or whether we do the on-the-record presentation or
5 what. I mean, if we're going to analyze the application
6 pursuant to the rule, that's one thing. If, on the other
7 hand, US Cellular's position is the rule doesn't apply but
8 it's just a helpful guide, that creates additional issues that
9 we would want to address and that's why I asked for a clearer
10 statement.

11 MR. STEINER: Our pleading says all the
12 elements of the rules are met -- rule is met and you can find
13 it in these locations in the record.

14 MR. STEWART: I understand that.

15 MR. STEINER: The Commission makes the
16 determination whether the rule applies or not, not
17 US Cellular.

18 MR. STEWART: Then that leaves us with the
19 only course of action is to address that issue as well, which
20 probably will take a little more time.

21 JUDGE WOODRUFF: Anyone else want to jump in
22 on this question?

23 MR. GRYZMALA: Your Honor, one brief matter.
24 If it is -- if it is the inclination at all or your Honor's
25 preference or conclusion that we be given additional time to

1 respond to the US Cellular response of yesterday, I just have
2 a personal matter. I was due out of the office next week and
3 if your Honor were inclined to grant Mr. Stewart's request,
4 that would suggest that the pleading, if timed from yesterday,
5 would be due on or about October 2nd. And I would ask a bit
6 of additional time just for my personal situation. But if
7 not, I can work around it if I need to.

8 JUDGE WOODRUFF: All right. I appreciate
9 letting me know that.

10 MR. GRYZMALA: Thank you.

11 JUDGE WOODRUFF: All right.

12 MR. STEINER: Your Honor, what would be
13 helpful is if you had any guidance on what you expected to be
14 accomplished today. Is the Commission wanting a hearing? Do
15 we have anything to go on there?

16 JUDGE WOODRUFF: Well, I'm not sure what the
17 Commission's going to want yet either. The response yesterday
18 took me by surprise a little bit also. And I haven't
19 discussed it with any of the Commissioners as to how they want
20 to proceed in this case and really haven't thought it through
21 that much as to what I would recommendation the Commission do.

22 What I'm going to ask you all to do is give me
23 a proposed procedural schedule. And we can wait a couple
24 weeks on that, Mr. Gryzmala, I want to let you deal with your
25 personal matters.

1 MR. GRYZMALA: Thank you.

2 JUDGE WOODRUFF: And I understand that based
3 on what was filed yesterday and the attitudes or positions of
4 the other parties, it's not likely we're going to get a single
5 proposed procedural schedule, although if you could work that
6 out, that would be great.

7 What I would suggest is that you go ahead and
8 file competing procedural schedules as to what you think is
9 appropriate, file your pleading along with the proposed
10 procedural schedule explaining why you think that schedule is
11 appropriate and that sort of combines your response to
12 yesterday's filing into a single document so we can deal with
13 it as expeditiously as possible.

14 Let's see. October 4th would be the
15 Wednesday; is that right?

16 MR. STEWART: That's correct.

17 JUDGE WOODRUFF: Does that sound okay to you,
18 Mr. Gryzmala?

19 MR. GRYZMALA: Yeah, that -- yes, sir.

20 JUDGE WOODRUFF: So you could file that
21 pleading by -- or pleadings for me by October 4th.

22 MR. ENGLAND: Your Honor, if I can just get
23 clarification. So by October 4th we will file, if we are so
24 inclined, a response to US Cellular's pleading of yesterday?

25 JUDGE WOODRUFF: Yes. Along with proposed

1 procedural schedule.

2 MR. ENGLAND: Which can either be joint if we
3 can agree or individual if we can't.

4 JUDGE WOODRUFF: Right. And, of course,
5 parties on the same side could agree to one schedule, that's
6 going to make it easier than trying to deal with four or five.

7 MR. STEWART: Sure.

8 JUDGE WOODRUFF: One other small matter I
9 wanted to bring up. As I was going through this this morning,
10 I noticed that the Staff's data center has now listed all of
11 your individual companies as receiving separate notices. So
12 apparently you've been getting 15 or 20 copies of everything;
13 is that --

14 MR. ENGLAND: I don't know that we've been
15 getting 15 to 20, but it seems like I get at least 2 to 3,
16 which is not -- did you see that many?

17 MR. MCCARTNEY: No. I don't think we're
18 getting all 20. I think --

19 JUDGE WOODRUFF: That's what showed up as the
20 attached listing.

21 MR. MCCARTNEY: I think what they've been
22 doing is just sending one to me and one to Trip.

23 JUDGE WOODRUFF: Which is fine.

24 MR. ENGLAND: That appears to be more than we
25 represent, which is okay, I just need to send out more bills.

1 MR. MCCARTNEY: That's times two there. For
2 example, it's BPS with me, BPS with your name.

3 MR. ENGLAND: I see some duplication here.
4 There's Farber twice, so --

5 MR. MCCARTNEY: It's both of our names.

6 JUDGE WOODRUFF: And I don't know why it's
7 doing that, but I wanted to make sure it wasn't something that
8 you had requested, as unlikely as that seemed. But I'll talk
9 to the data center about that.

10 MR. ENGLAND: Yeah, there's clearly more
11 service than needs to be.

12 MR. STEWART: And I was going to say on mine,
13 I probably was getting two of each and I only need one, but --
14 for what it's worth.

15 MR. STEINER: Your Honor, could we have access
16 to the Commission's hearing availability in the next few
17 months?

18 JUDGE WOODRUFF: Sure. The calendar's
19 upstairs on the ninth floor. That's still the most reliable
20 way to find it.

21 MR. STEINER: We'd like to talk to everybody
22 if we use this date then --

23 JUDGE WOODRUFF: Sure.

24 MR. ENGLAND: While we've got you, Judge, is
25 it possible to double book, if you will? Because my

1 recollection is the hearing schedules with rate cases is right
2 now taking up -- we were told I think until early to mid April
3 and if we could agree --

4 JUDGE WOODRUFF: Well, that changes from day
5 to day. There are a few gaps in there. But particularly once
6 we get into January through April is very crowded.

7 MR. ENGLAND: My only thought was if the
8 Commission is so inclined, we could perhaps use the small
9 hearing room for purposes of this case even though
10 something --

11 JUDGE WOODRUFF: That has been a topic of
12 discussion on the ninth floor amongst the judges. I've not
13 discussed it with the Commissioners yet, however. And I think
14 if you believe that that would be appropriate in this case,
15 include it --

16 MR. STEWART: Suggest it.

17 JUDGE WOODRUFF: -- and I'll get the
18 Commissioner's approval on it. I'm certainly open to that
19 idea. And we are talking about getting the -- electronic
20 setup so we can broadcast from this room as well.

21 MR. ENGLAND: In that regard, if that is a
22 possibility, I guess we need to know what your availability is
23 to the extent you may be tied up in some of those rate cases
24 as well.

25 JUDGE WOODRUFF: I know that February and

1 April right now are very bad for me, but other than that, it's
2 not looking too bad for me personally. And, of course, the
3 calendar upstairs on the white board up there indicates which
4 judge has which case too, so -- and I'll be in my office all
5 day if, you know, you want to come by and say hello.

6 All right. Well, I don't have anything else.
7 Anything else anyone wants to bring up while we're on the
8 record?

9 With that then, the on-the-record portion of
10 this prehearing is adjourned and I'll leave you to your
11 discussions. And, Mr. Gryzmala, I guess you're still on the
12 line?

13 MR. GRYZMALA: Yes, sir, I am.

14 JUDGE WOODRUFF: Thank you all very much.

15 WHEREUPON, the prehearing conference was
16 adjourned.

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