

**Exhibit No.:**

**Issue(s):**

**Witness/Type of Exhibit:**

**Sponsoring Party:**

**Case No.:**

---

ETC Status

Meisenheimer/Rebuttal

Public Counsel

TO-2005-0325

**REBUTTAL TESTIMONY**

**OF**

**BARBARA A. MEISENHEIMER**

Submitted on Behalf of the Office of the Public Counsel

**MISSOURI RSA NO. 7 LIMITED PARTNERSHIP**  
**D/B/A MID-MISSOURI CELLULAR**

**CASE NO. TO-2005-0325**

June 10, 2005

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

In the Matter of the Third Application of Missouri RSA )  
No. 7 Limited Partnership d/b/a Mid-Missouri Cellular )  
For Designation as a Telecommunications Company ) Case No. TO-2005-0325  
Eligible for Federal Universal Service Support Pursuant )  
To § 254 of the Telecommunications Act of 1996. )

**AFFIDAVIT OF BARBARA A. MEISENHEIMER**

**STATE OF MISSOURI**

ss

**COUNTY OF COLE**

Barbara A. Meisenheimer, of lawful age and being first duly sworn, deposes and states:

1. My name is Barbara A. Meisenheimer. I am Chief Utility Economist for the Office of the Public Counsel.
2. Attached hereto and made a part hereof for all purposes is my rebuttal testimony consisting of pages 1 through 15.
3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.

  
**Barbara A. Meisenheimer**

Subscribed and sworn to me this 10<sup>th</sup> day of June 2005.

KATHLEEN HARRISON  
Notary Public - State of Missouri  
County of Cole  
My Commission Expires Jan. 31, 2006

  
Kathleen Harrison  
Notary Public

My Commission expires January 31, 2006.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

**REBUTTAL TESTIMONY**  
  
**OF**  
  
**BARBARA MEISENHEIMER**  
  
**CASE NO. TO-2005-0325**  
  
**APPLICATION OF MISSOURI RSA NO. 7 LIMITED PARTNERSHIP**  
  
**D/B/A MID-MISSOURI CELLULAR FOR ETC STATUS**

***I. INTRODUCTION***

**Q. PLEASE STATE YOUR NAME, TITLE, AND BUSINESS ADDRESS.**

A. Barbara A. Meisenheimer, Chief Utility Economist, Office of the Public Counsel,  
P. O. 2230, Jefferson City, Missouri 65102.

**Q. PLEASE SUMMARIZE YOUR EDUCATIONAL AND EMPLOYMENT BACKGROUND.**

A. I hold a Bachelor of Science degree in Mathematics from the University of Missouri-Columbia (UMC) and have completed the comprehensive exams for a Ph.D. in Economics from the same institution. My two fields of study are Quantitative Economics and Industrial Organization. My outside field of study is Statistics. I have taught Economics courses for the following institutions: University of Missouri-Columbia, William Woods University, and Lincoln University. I have taught Economics courses at both the undergraduate and graduate level. I have also taught undergraduate level Mathematics for the University of Missouri-Columbia and undergraduate level Statistics for William Woods University.

1       Q.   **PLEASE SUMMARIZE YOUR EXPERIENCE RELATED TO UNIVERSAL SERVICE AND**  
2       **WIRELESS ISSUES.**

3       A.   I served on the Federal/State Universal Service Joint Board Staff for a number of  
4       years. In this capacity, I reviewed information on various issues related to the  
5       Federal Universal Service Fund including, but not limited to, carrier eligibility,  
6       federal high cost support, and the federal Lifeline and LinkUp programs. I have  
7       assisted the Federal/State Joint Board in preparing recommendations for the FCC  
8       in implementing the Universal Service related provisions of the 1996  
9       Telecommunications Act. As a Federal/State Joint Board staff member, I also  
10      reviewed Joint Board Monitoring Reports and FCC Telephone Penetration  
11      Reports designed to evaluate the performance of the federal and state programs in  
12      assisting low-income customers. I also participated in a national forum on  
13      Universal Service issues sponsored by the Consumer Energy Council of America  
14      (CECA) and contributed income-based subscribership data compiled by the U.S.  
15      Census Bureau under contract with the Missouri Public Counsel's Office. I am  
16      also a past member of the North American Numbering Council. The North  
17      American Numbering Council advises the FCC on numbering issues related to  
18      both wireline and wireless services. At the State level, I participated in industry  
19      workshops to develop recommendations on components of the Missouri Universal  
20      Service Fund. I currently assist the Public Counsel in his duties as a member of  
21      the Missouri Universal Service Board. I have regularly submitted testimony on  
22      behalf of Public Counsel since 1996 on various issues, including universal

1 service, numbering, calling scopes, rate cases, price caps, and other competitive  
2 issues.

3 **Q. WHAT INFORMATION DID YOU REVIEW IN PREPARATION OF YOUR TESTIMONY?**

4 A. I reviewed the Application and the direct testimony of Michael Kurtis and Kevin  
5 Dawson filed on behalf of Missouri RSA No. 7 Limited Partnership d/b/a Mid-  
6 Missouri Cellular (MMC or Company), portions of the Missouri Public Service  
7 Commission rules, the Federal Communications Commission (FCC) rules and  
8 Report and Orders, related to Universal Service.

9 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

10 A. The purpose of my testimony is to respond to portions of the direct testimony of  
11 Michael Kurtis and Kevin Dawson filed on behalf of Missouri RSA No. 7 Limited  
12 Partnership d/b/a Mid-Missouri Cellular (MMC or Company).

13  
14 ***II. SUMMARY OF POSITION IN RESPONSE TO THE APPLICATION AND***  
15 ***SUPPORTING TESTIMONY***

16 **Q. WHAT IS YOUR GENERAL RESPONSE TO THE COMPANY'S APPLICATION?**

17 A. The Company has provided substantial information on its current operations and  
18 future expansion plans for Missouri. The Application and supporting testimony  
19 together with discussions I had with personnel in the Company's customer service  
20 department indicate that the Company currently serves wireless customers  
21 utilizing 27 cell stations, many of which have been over-built with improved  
22 technology that facilitates higher capacity data transfers and improved 911  
23 services. The company has demonstrated a financial and technical ability to serve

1 through its established and significant presence in Missouri as well as through the  
2 substantial investments it has made in constructing and maintaining its existing  
3 network. In addition, any high cost support received will be used to maintain its  
4 current network as well as to grow and enhance its facilities in Missouri. In terms  
5 of offering the supported services, the Company already provides many of the  
6 services, or functional equivalents, targeted for support through the Federal  
7 Universal Service mechanism and has committed to offer the remaining supported  
8 services established 47 C.F.R. § Section 54.101(a).

9  
10 In discussions with the Company, I have sought clarification regarding its  
11 willingness to adhere to additional requirements that I believe will promote the  
12 public interest if the Commission approves the Company's Application for ETC  
13 status to receive Federal Universal Service support. The Company has agreed to:

- 14 ➤ File and maintain with the Commission a current copy of service  
15 area maps, a list of the local telephone exchanges in which service  
16 is available and an illustrative copy of customer service  
17 agreements;
- 18  
19 ➤ Provide a Link-Up discount of 50% from the Company's  
20 activation rate, up to a maximum discount of \$30. Specifically, the  
21 Company will provide a discount of \$15 off the current \$30  
22 activation fee;
- 23  
24 ➤ Refrain from increasing the rate or adversely altering the service  
25 elements of the proposed Lifeline offerings contained in the  
26 Application;
- 27  
28 ➤ Inform prospective Lifeline customers of the price of the lowest  
29 cost handset available. This would not limit MMC's ability to  
30 inform a perspective Lifeline customer of other available handsets;
- 31  
32 ➤ Act as a "carrier of last resort" throughout the requested service  
33 territory. MMC's testimony already accepts this obligation; and

- Pursue resale as an additional method of serving customers that request service in areas where the Company is unable to provide facilities-based service using its own facilities or those of another carrier with which it has partnered to provide wireless service.

With Commission approval of these conditions, Public Counsel would support MMC's Application for Federal ETC status throughout the requested territory.

**Q. IS MMC SEEKING SUPPORT FROM THE MISSOURI UNIVERSAL SERVICE FUND?**

A. Based on discussions with the Company, it is my understanding that MMC is not seeking support from the Missouri Universal Service Fund at this time.

***III. BACKGROUND ON UNIVERSAL SERVICE PROVISIONS***

**Q. WHAT ARE THE RELEVANT PROVISIONS OF THE 1996 TELECOMMUNICATIONS ACT THAT THE COMMISSION WILL CONSIDER IN THIS CASE?**

A. The relevant provisions are contained in Section 254 and Section 214 of the 1996 Telecommunications Act.

Section 254(e) mandates that:

- Only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific Federal universal service support.
- A carrier that receives such support shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

Section 254(f) allows:

- A State may adopt regulations not inconsistent with the Commission's rules to preserve and advance universal service.

Section 214(e)(1) defines eligible carriers and establishes minimum service and advertising requirements:

- A common carrier designated as an eligible telecommunications carrier under paragraph (2) or (3) shall be eligible to receive universal service support in accordance with section 254. and shall, throughout the service area for which the designation is received.
- A common carrier designated as an eligible telecommunications carrier under paragraph (2) or (3) shall, throughout the service area for which the designation is received, offer the services that are supported by Federal universal service support mechanisms under section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier.)
- A common carrier designated as an eligible telecommunications carrier under paragraph (2) or (3) shall, throughout the service area for which the designation is received, advertise the availability of such services and the charges therefor using media of general distribution.

Section 214(e)(2) establishes the Missouri Commission's authority to designate eligible telecommunications carriers:

- A State commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the State commission.
- Upon request and consistent with the public interest, convenience, and necessity, the State commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the State commission, so long as each additional requesting carrier meets the requirements of paragraph (1).
- Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the State commission shall find that the designation is in the public interest.

Section 214(e)(3) establishes the Missouri Commission's authority to designate eligible telecommunications carriers for unserved areas. This is currently not an issue in this proceeding.



Section 254(5) defines the service area for the purpose of universal service:

- The term 'service area' means a geographic area established by a State commission for the purpose of determining universal service obligations and support mechanisms.
- 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 and the States, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area for such company.

**Q. WHAT SERVICES HAS THE FCC DETERMINED WILL BE SUPPORTED?**

A. The FCC's supported services are set forth in 47 C.F.R. § 54.101(a):

- voice grade access to the public switched telephone network;
- local usage;
- dual tone multi-frequency signaling or its functional equivalent;
- single-party service or its functional equivalent;
- access to emergency services;
- access to operator services;
- access to interexchange service;
- access to directory assistance;
- toll limitation for qualifying low-income consumers.

In addition, ETCs must provide Lifeline and LinkUp services to qualifying low-income consumers<sup>1</sup>, must offer toll limitation to Lifeline customers at the time such consumers subscribe to Lifeline service<sup>2</sup> and may not collect a service deposit in order to initiate Lifeline service, if the qualifying low-income consumer voluntarily elects toll blocking from the carrier, where available<sup>3</sup>.

---

<sup>1</sup> 47 C.F.R. § 54.405 and 47 C.F.R. § 54.411(a)

<sup>2</sup> 47 C.F.R. § 54.401(3)

<sup>3</sup> 47 C.F.R. § 54.401(4)

***IV. RESPONSE TO THE APPLICATION***

**Q. ARE YOU SATISFIED THAT THE COMPANY’S APPLICATION DEMONSTRATES THAT IT CAN PROVIDE THE SUPPORTED SERVICES NECESSARY TO MEET THE ETC OBLIGATIONS?**

**A. I accept that for purposes of federal high cost support the Company already provides many of the supported services or a functional equivalent. These services include;**

- a. voice grade access to the public switched telephone network;
- b. local usage;
- c. dual tone multi-frequency signaling or its functional equivalent;
- d. single-party service or its functional equivalent;
- e. access to emergency services;
- f. access to operator services;
- g. access to interexchange service;
- h. access to directory assistance;
- i. toll limitation for qualifying low-income consumers.

The Company proposes three Lifeline service offerings and an additional option called an “ILEC Equivalent Plan.” The first Lifeline service plan provides unlimited local calling in the area served by the subscriber’s home cell site at a fixed monthly price of \$6.25 per month. The second plan allows unlimited local calling throughout MMC’s service area for \$10 per month. Both of these plans appear to promote greater and continued subscription to the telecommunications network first by offering the supported services at rates comparable to the incumbent carriers rates and second by limiting the potential for customers to incur unmanageable toll or roaming charges. The \$6.25 and \$10 plans limit the geographic calling area or, in another sense, provide a form of mandatory toll blocking. Since customers have a choice between these two Lifeline options or a

1           third which will allow calling outside the Company's home area, it appears that  
2           subscribers that elect one of these two plans could not be required to pay a deposit  
3           as a condition of service. *47 C.F.R. § 54. 401(4)* A further attribute of the \$6.25  
4           and \$10 plans are that by removing the opportunity of customers to incur  
5           unmanageable toll or roaming charges, they conceptually achieve a similar benefit  
6           for Lifeline customers as that received by landline subscribers in 4 CSR 240-  
7           33.070 (2);

8  
9                       4 CSR 240-33.070 (2) Basic local telecommunications service  
10           may not be discontinued for customer nonpayment of a delinquent  
11           charge for other than basic local telecommunications services. The  
12           failure to pay charges not subject to commission jurisdiction shall  
13           not constitute cause for a discontinuance of basic local  
14           telecommunication service. Nonpayment of the Missouri Universal  
15           Service Fund (USF) surcharge shall be considered nonpayment of  
16           basic local telecommunications services for the purposes of this  
17           rule.  
18

19           The third plan proposed by MMC allows Lifeline customers to pick any existing  
20           service plan and receive an \$8.25<sup>4</sup> discount off MMC's normal monthly rates. I  
21           believe that this plan exposes Lifeline customers to greater risk of incurring per-  
22           minute "over-the-plan-limit" charges and roaming related fees that could be  
23           unmanageable for low-income consumers and result in disconnection for non-  
24           payment. However, the federal USF does not require blocking for purposes of  
25           receiving federal support and providing a discount of the normal service rate are  
26           both consistent with the federal Universal Service mechanism, therefore, Public  
27           Counsel does not oppose this alternative.

---

<sup>4</sup> The discount includes \$1.75 per month plus the federal line charge discount of \$6.50 per month.

1  
2 The "ILEC Equivalent Plan" does not appear to be of greater value than the other  
3 three options.

4 **Q. IN A PREVIOUS PROCEEDING BEFORE THE COMMISSION YOU RECOMMENDED**  
5 **THAT A WIRELESS APPLICANT BE REQUIRED TO COMPLY WITH CERTAIN**  
6 **STANDARDS EQUIVALENT TO WIRELINE SERVICE PROVIDERS. PLEASE DISCUSS**  
7 **THOSE STANDARDS.**

8 A. Generally the standards were designed to ensure that all the supported services  
9 would be provided and to address customer protection issues. Specifically, I  
10 asked that the applicant:

- 11 ➤ Provide specific details regarding the proposed lifeline offerings;
- 12
- 13 ➤ Demonstrate sufficient financial and technical resources to provide
- 14 adequate service;
- 15
- 16 ➤ Provide exchange specific service area maps;
- 17
- 18 ➤ Provide information related to the terms and conditions of service;
- 19
- 20 ➤ Commit to provide sufficient information to the Commission for it
- 21 to fulfill its obligation in certifying that USF support would be
- 22 used for the intended purpose;
- 23
- 24 ➤ Adhere to minimum billing disclosures, service quality standards, a
- 25 formal complaint process and other customer relations procedures,
- 26 such as snap-back.
- 27

28 **Q. HAS MMC PROVIDED SUFFICIENT DETAIL REGARDING ITS PROPOSED LIFELINE**  
29 **AND LINKUP OFFERINGS?**

1       A. Yes, MMC's application provided a clear description of the Lifeline and Link Up  
2       services it intends to offer if it receives ETC status. In discussions with the  
3       Company, it agreed that it would not increase the rate or adversely alter the  
4       service elements of the proposed Lifeline offerings contained in the Application.  
5       I view this as a significant safeguard for low-income consumers and key in  
6       promoting the public interest. MMC also agreed to clarify the LinkUp description  
7       to provide a full 50% discount of the activation fee in the event that the Company  
8       eventually adopts a higher charge for initiating service. At this time, the  
9       Company has no plans to raise the activation fee.

10  
11       While buying a handset can be an expensive component of subscription, the  
12       federal Universal Service mechanism does not allow carriers to recover any cost  
13       associated with the handset from the Fund. The Company will have two ways to  
14       make subscribership more affordable to customers who need a handset to initiate  
15       service. The first is that the Company is willing to inform prospective Lifeline  
16       customers of the price of the lowest cost handset available provided it retained the  
17       ability to inform a perspective Lifeline customer of other available handsets.  
18       Further, the Application indicates that Lifeline customers may defer a portion of  
19       the activation fee and the cost of a handset interest free for up to 12 months.  
20       Deferring interest is certainly a benefit to low-income customers that ultimately  
21       choose a more expensive handset.

22       **Q. DO YOU HAVE CONCERNS REGARDING THE APPLICANT'S FINANCIAL AND**  
23       **TECHNICAL ABILITY TO SERVE?**

1       A. No. The Applicant has an established and significant presence in Missouri that  
2       indicates a financial and technical ability to provide the required services.

3       **Q. HAS THE COMPANY PROVIDED OR COMMITTED TO PROVIDE MAPS OF ITS**  
4       **SPECIFIC COVERAGE IN THE RELEVANT AREAS?**

5       A. Yes, in addition to the Company's commitment to adhere to the CTIA Consumer  
6       Code for Wireless Service that proposes that maps be provided of a carrier's  
7       general service area, the Application provided exchange specific service area  
8       maps and information on currently available service offerings. In discussions  
9       with the Company, it also agreed to maintain detailed maps on file with the  
10      Commission on an ongoing basis.

11      **Q. HAS THE COMPANY PROVIDED OR COMMITTED TO PROVIDE INFORMATION ON**  
12      **SPECIFIC SERVICE OFFERINGS AND THE TERMS AND CONDITIONS OF SERVICE?**

13      A. Yes. The Company's Application commits to adhere to the CTIA Consumer  
14      Code for Wireless Service that requires the Company to disclose to customers  
15      service terms and conditions. In my discussions with the Company, it also agreed  
16      to maintain illustrative customer agreements containing the terms of service on  
17      file with the Commission on an ongoing basis.

18      **Q. HAS MMC COMMITTED TO TERMS THAT WILL PROMOTE THE UNIVERSAL**  
19      **AVAILABILITY OF SERVICE IN ITS TERRITORY?**

20      A. Yes. In its Application, MMC committed to serve all customers requesting service  
21      to the extent feasible and to act as carrier of last resort. On page 16 of the  
22      Application, MMC outlines five methods for serving a customer that requests  
23      service. In discussions with the Company, it agreed to pursue resale as a sixth

1 method of serving customers that request service , consistent with the Virginia  
2 Cellular Order referenced in the Company's testimony,.

3 **Q. HAS THE COMPANY AGREED TO ADDITIONAL CONDITIONS THAT WILL PROMOTE**  
4 **THE UNIVERSAL AVAILABILITY OF SERVICE IN ITS TERRITORY?**

5 A. Yes. The Company indicated in discussions that it intended to perform credit  
6 checks on new customers. However, it agreed to provide service to all customers  
7 that do not have a past unpaid account with the Company. Has the Company  
8 committed to provide sufficient information to the Commission for it to fulfill its  
9 obligation in certifying to the FCC that USF support would be used only for the  
10 intended purpose?

11 A. Yes. MMC has committed in its Application to comply with the annual reporting  
12 obligations outlined by the FCC in the Virginia Cellular Order.

13 **Q. HAS THE COMPANY COMMITTED TO MINIMUM BILLING DISCLOSURES, SERVICE**  
14 **QUALITY STANDARDS, A FORMAL COMPLAINT PROCESS OR OTHER CUSTOMER**  
15 **RELATIONS PROCEDURES, SUCH AS SNAP-BACK?**

16 A. The company has committed to comply with the CTIA Consumer Code for  
17 Wireless Service. The Consumer Code sets forth a list of information that will be  
18 provided on a customer's bill. The Code indicates that such information be  
19 provided by carriers on a voluntary basis. MMC states that with the one exception  
20 of the length of the trial service period, it is compliant with the billing and quality  
21 of service standards contained in the Consumer Code. While I believe that it  
22 would be desirable and would further the public interest for the Commission to  
23 establish more detailed and state specific billing disclosures, quality of service

1 standards, a formal complaint process and other customer relations procedures,  
2 such as snap-back for wireless ETCs , those issues may be best addressed in the  
3 context of a rule making.

4  
5 Some aspects of MMC's Application do mitigate my concerns related to the snap-  
6 back issue. Since MMC is willing to accept carrier of last resort obligations and  
7 neither it nor a landline carrier of last resort can abandon a service area without  
8 Commission approval, the need for snap-back procedures that apply to MMC is  
9 not a pressing issue.

10 **Q. ARE YOU SATISFIED WITH MMC'S PROPOSAL TO OFFER EQUAL ACCESS**  
11 **UNDER CERTAIN CIRCUMSTANCES?**

12 **A.** Yes. In Missouri, all landline basic local service providers are required to provide  
13 equal access. Equal access allows customers to reach alternative service  
14 providers in the same manner without advantage to any one carrier or group of  
15 carriers. Providing "access to" but not "equal access to" interexchange carriers is  
16 currently allowed for wireless carriers under the 1996 Telecommunications Act.  
17 However, it is not mandatory under the 1996 Telecommunications Act that  
18 wireless carriers provide equal access. Since wireless carriers can choose whether  
19 or not to seek universal service funding, I believe that the Commission could  
20 condition approval of ETC status on a carrier's willingness to provide equal  
21 access. In this case, MMC has agreed to offer equal access if all other ETCs  
22 abandon a service area.



1       Q.   **DOES THIS CONCLUDE YOUR TESTIMONY?**

2       A.   Yes, it does.