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**Missouri Public
Service Commission**

Exhibit No.:

Issues: NPA Relief

Witness: Daniel M. Paul

Type of Exhibit: Rebuttal Testimony

Sponsoring Party: Ameritech Cellular™

Case No. TO-2000-374

Date Testimony Prepared: June 22, 2000

**CYBERTEL CELLULAR TELEPHONE COMPANY
AND
CYBERTEL RSA LIMITED PARTNERSHIP
d/b/a AMERITECH CELLULAR™**

TO-2000-374

REBUTTAL TESTIMONY

OF

DANIEL M. PAUL

JUNE, 2000

CASE NO. TO-2000-374
REBUTTAL TESTIMONY

OF

DANIEL M. PAUL

1 Q. Please state your name and business address.

2 A. My name is Daniel M. Paul and my business address is 500 Maryville
3 Centre Drive, Suite 250, St. Louis, Missouri 63141.

4
5 Q. Are you the same Daniel M. Paul that caused to be filed Direct Testimony
6 in this case on May 10, 2000?

7 A. Yes I am.

8
9 Q. Barbara A. Meisenheimer, a witness sponsored by the Office of the Public
10 Counsel, recommends that the Missouri Public Service Commission
11 ("Commission") "consider adopting a 'wireless overlay' instead of an 'all
12 services overlay' as the method of back-up relief, if time permits, in the
13 event that the FCC's [*sic*] lifts its current prohibition on technology
14 specific overlays." (Meisenheimer Direct, p. 7, l. 17-19; p. 34, l. 10-14).
15 Should the Commission follow this recommendation?

16 A. No. Ms. Meisenheimer correctly points out that "the FCC prohibits the
17 use of technology specific overlays" (Meisenheimer Direct, p. 7, l. 15).
18 The FCC's ruling in the Ameritech case¹ that, as a matter of law, a

¹ See, In the Matter of Proposed 708 Relief Plan and 630 numbering plan area code by Ameritech-Illinois, IAD 94-102, *Declaratory Ruling and Order*, para. 2 (Released January 23, 1995).

1 wireless specific overlay violates the Federal Communications Act
2 because such an overlay constitutes unjust and unreasonable
3 discriminatory practices, is as valid today as it was when issued in 1995.
4 When it revisited this issue and had a chance to reverse itself, the FCC
5 reiterated its initial holding. The Texas Public Utility Commission
6 attempted implementation of a wireless-only overlay and the FCC once
7 again ruled unequivocally that service-specific or technology-specific
8 overlay plans are unreasonably discriminatory and would unduly inhibit
9 competition because such plans would exclude certain carriers or services
10 from the existing area code and segregate them in a new area code. The
11 FCC's reasoning was sound when these orders were issued, and remains
12 so to this day.

13
14 Q. Has the FCC indicated that they would be revisiting this issue?

15 A. Yes. In their number conservation order released March 31, 2000, the
16 FCC did indicate that they intended to address technology-specific
17 overlays as one of a number of other issues raised in the *Numbering*
18 *Resource Optimization Notice of Proposed Rulemaking*. However, the
19 FCC also said in that order that its existing rules and policies, including
20 the prohibition on technology-specific area code overlays, remain in effect
21 until further addressed.

1 Q. Is there any guarantee that the FCC will issue any further orders regarding
2 technology-specific overlays prior to the time area code relief must be
3 implemented in the 314 area code?

4 A. There is absolutely no guarantee that the FCC will make any further ruling
5 on technology-specific overlays before area code relief must be
6 implemented in the 314 area code, much less before the time an order of
7 this Commission is needed to timely implement area code relief. Nor is
8 there any certainty at all that the FCC will reverse its existing prohibition
9 on wireless-only overlays.
10

11 Q. With no certainty regarding the timing or substance of a further ruling by
12 the FCC on wireless-specific overlays, should the Commission enter an
13 order as suggested by Public Counsel adopting a relief method expressly
14 prohibited by the FCC?

15 A. It makes no sense to order the implementation of an anti-competitive and
16 discriminatory relief plan based upon the premise that the FCC will
17 reverse itself at some unknown date in the future. Such an order may not
18 be sustainable on appeal, and could result in further action being required
19 by this Commission to implement a new method of rate relief at a time
20 when the 314 NPA is in jeopardy status. Missouri telecommunications
21 customers deserve better than to select a relief plan betting "on the come."
22

23 Q. Does that conclude your rebuttal testimony at this time?

24 A. Yes, it does.

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Petition of the North)
American Numbering Plan Administrator,)
on Behalf of the Missouri Telecommunications) Case No. TO-2000-374
Industry, for Approval of NPA Relief Plan for)
the 314 and 816 Area Codes)

AFFIDAVIT OF DANIEL M. PAUL

STATE OF MISSOURI)
) SS
COUNTY OF ST. LOUIS)

I, Daniel M. Paul, of lawful age, being duly sworn, depose and state:

1. My name is Daniel M. Paul. I am presently a Facilities Engineer for Ameritech Cellular™.

2. I hereby swear and affirm that my answers contained in my prefiled rebuttal testimony consisting of 3 pages to be presented in the above case are true and correct to the best of my knowledge and belief and that I have knowledge of the matters contained therein.

Daniel M. Paul

Daniel M. Paul

Subscribed and sworn to before me this 20th day of June, 2000.

Wendy Hathaway

Notary Public

My Commission Expires:

Sept. 23, 2000

