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STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

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TRANSCRIPT OF PROCEEDINGS

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Prehearing

6

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November 4, 2005  
Jefferson City, Missouri

8

Volume I

9

10 In the Matter of the Application )  
of Mark Twain Communications )  
11 Company for a Nunc Pro Tunc Order )  
Specifying the Service Area of Mark )  
12 Twain Communications and Redefining )Case No. TO-2006-0100  
The Service Area of Spectra )  
13 Communications for Purposes of Mark )  
Twain's ETC Service Area and )  
14 Federal Universal Support Pursuant )  
To Section 254 of the )  
15 Telecommunications Act of 1996 )  
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KEVIN A. THOMPSON, Presiding  
DEPUTY CHIEF REGULATORY LAW JUDGE

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P R O C E E D I N G S

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JUDGE THOMPSON: Okay. Let's go

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ahead and go on the record. We are here in the

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matter of the application of Mark Twain

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Communications Company for a Nunc Pro Tunc

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Order specifying the service area of Mark Twain

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Communications and redefining the service area

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of Spectra Communications for purposes of Mark

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Twain's ETC service area and federal universal

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service support pursuant to Section 254 of the

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Telecommunications Act of 1996. This is Case

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No. TO-2006-0100.

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My name is Kevin Thompson. I'm the

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regulatory law judge assigned to this case.

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And we will begin with oral entries of

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appearance. Why don't we start with Mark

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Twain?

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MR. JOHNSON: Thank you, your Honor.

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Craig Johnson, 1648-A East Elm, Jefferson City,

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Missouri, 65101, here today on behalf of Mark

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Twain Communications.

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JUDGE THOMPSON: Very well. Is there

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someone here for Spectra?

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MR. STEWART: Yes. Good morning,

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your Honor. Charles Brent Stewart of the law



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referring to the Nunc Pro Tunc piece, or are you referring to the service area redefinition piece?

MR. JOHNSON: I believe that you can,  
your Honor.

MR. JOHNSON: Yes. There's -- what's unusual about this case, Judge, is that Mark Twain received its ETC designation from this Commission several years ago, I believe the first ETC designation order.

So we feel like and we've put together in the application the reasons why we thought that was just an oversight or clerical error, which a Nunc Pro Tunc order can correct.

1 service area redefinition is any time an ETC is  
2 designated in a rural incumbent service area,  
3 there's a special analysis that the State  
4 Commissions are authorized to go through before  
5 they can certify what their redefined service  
6 area is.

7 We don't change Spectra's study area, but  
8 you redefine Spectra's service area for  
9 purposes of designating Mark Twain's service  
10 area. And that's what the federal government  
11 requires in order to be entitled to universal  
12 service things as a competitive ETC. And all  
13 this is specifically set forth in statutes.

14 It's developed with the FCC decisions, and  
15 eventually there were some FCC rules  
16 promulgated in March or April of this year.  
17 It's an evolving thing, but it's something that  
18 you're authorized to do.

19 JUDGE THOMPSON: What effect,  
20 Mr. Stewart, would that have on Spectra?

21 MR. STEWART: Actually, your Honor,  
22 if I might back up a little bit, I'm not sure  
23 Spectra would necessarily agree with the Nunc  
24 Pro Tunc characterization and all that.

25 However, having said that, it's clear that

1           since the Commission first issued its order in  
2           the Mark Twain case granting it ETC status,  
3           there have been a number of changes with  
4           respect to how State Commissions and the FCC  
5           deals with these types of situations and cases.

6                     And the situation Mark Twain finds itself  
7           in is needing something from this Commission  
8           that basically does two things, and that is  
9           designate the specific ETC service area. I  
10          think we do agree on that, that they need --  
11          this Commission needs to deal with that. And  
12          also, under the newer rules, they need to deal  
13          with what we call the cream skimming analysis  
14          that is supposed to now take place when you  
15          look at whether to redefine the incumbent's  
16          service area.

17                    Having said all of that -- and we've had a  
18          chance now to look at the impact on Spectra and  
19          the actual situation specific to this case.  
20          And, frankly, I think even though I may  
21          disagree slightly with some of the procedural  
22          niceties of it, I think from Spectra's  
23          perspective, we're in a position today where we  
24          weren't when the case was first filed to reach  
25          some sort of a stipulation and agreement on how

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1           we would recommend as -- as all the parties  
2           would recommend the Commission might proceed to  
3           take care of Mark Twain's fundamental problem  
4           and dispose of this case altogether.

5           So I'm hopeful that with -- at this  
6           prehearing we'll be able to talk about some  
7           actual language that we might recommend to the  
8           Commission, for example, to be put in its order  
9           for comply with the new FCC rule.

10           JUDGE THOMPSON: Good. Okay. And  
11           anyone else have anything they want to say?

12           Okay. I'd like to take a moment to  
13           introduce you to Steve Reed, who is a new  
14           regulatory law judge that has recently joined  
15           us.

16           JUDGE REED: Hi.

17           JUDGE THOMPSON: And if the parties  
18           have nothing else, then we will adjourn the  
19           recorded portion of this prehearing conference.

20           I have some calendars here for you if, in  
21           fact, you're going to need a hearing date, and  
22           I'll be in the building if -- if you break down  
23           to the point of fist to cuffs or you need me  
24           for some other reason.

25           MR. STEWART: Judge, can I ask kind



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1 of a procedural question?

2 MR. THOMPSON: You may. You can ask  
3 any question you want.

4 MR. STEWART: Assuming we're able to  
5 get a stipulation, I think the order said that  
6 you wanted a procedural schedule in a week.  
7 I'm --

8 JUDGE THOMPSON: I would be more than  
9 happy to forego a procedural schedule if that  
10 will help you reach a stipulation.

11 MR. STEWART: What I was thinking --

12 JUDGE THOMPSON: I'll even type the  
13 stipulation for you.

14 MR. STEWART: I might -- might just  
15 file something in lieu of the procedural  
16 schedule, a stipulation in lieu of the  
17 procedural schedule if that's still an  
18 appropriate procedure.

19 JUDGE THOMPSON: That would be great.  
20 Nothing else? Thanks. See you guys later.

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