

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

In the matter of the application of USCOC of            )  
Greater Missouri, LLC for designation as an            )  
eligible telecommunications carrier pursuant to        )  
the Telecommunications Act of 1996.                    )        Case No. TO-2005-0384

**OFFICE OF PUBLIC COUNSEL’S POST HEARING BRIEF**

In its pretrial brief, the Office of Public Counsel asked the Public Service Commission to reject USCOC of Greater Missouri, LLC, d/b/a U.S. Cellular Corporation’s application for Eligible Telecommunications Carrier status for funding from the Federal Universal Service Fund. After cross-examination of the witnesses and consideration of the entire evidentiary record, Public Counsel’s position has not changed. The application should be denied.

One of the foremost reasons for rejecting the application is that the price, terms and conditions of service, in particular Lifeline offerings do not provide a clear picture of the cost or terms and conditions of receiving service. Prior to its designation as an ETC, USCOC must give the PSC assurance that reasonably priced service will be continuously available to Lifeline customers. The record fails to provide that assurance.

It was only after the hearing commenced that the applicant produced a Lifeline plan and rate and then during the hearing and after a recess, US Cellular “sweetened” the deal with more minutes and a better price for Lifeline customers. (Tr. 106-110) Still as indicated by Public Counsel’s witness Meisenheimer in her Testimony schedules, the ever changing plan did not match the plan and rates offered in other states served by US

Cellular. (Tr. 250). The customer was also required to enter into a two year contract for Lifeline service. Although the customer receives the cell phone for one cent, termination of the contract would normally subject that customer to a \$150 termination fee, but apparently that fee does not apply to Lifeline customers. (Tr. 111-112). The Company's convenient change in policy only demonstrates that the company has not disclosed its true position to the Commission, but rather is treating this application process like a used car negotiation. If rates can be reduced and fees changed on a whim and on the spot, then those same rates and fees are subject to increase in the same manner, without knowledge, notice or approval of the PSC. (Tr. 112-113) The Lifeline program appears to be a \$8.50 discount on any local or national calling plan ranging from \$25 a month for the local calling basic lifeline plan to the \$200 national plan that allows calling to the 48 continental states. (Tr.111-113) The Commission has no assurance that US Cellular will stand committed to the quoted rates and fee policies. This is inconsistent with the public interest standard expressed in Section 392.185, RSMo to provide affordable and reasonable rates for all ratepayers.

US Cellular will not make an unequivocal statement that it will follow the PSC's billing and collection, dispute resolution, complaint process, and disconnection and other consumer protection rules that ILECs and wireline CLECs must follow. The company will only commit to follow those rules if required or ordered by the PSC. (Tr. 113-118; 250-1). The Company's witness Mr. Wright, the representative of the Company, would not commit to providing consumer protections unless directed to do so. In the same manner, the company will file a five year plan if the PSC directs it to file it, but refused to commit to make a five year plan part of its application. (Tr. 122; 389)

The applicant's reluctance and unwillingness to make an unequivocal and definite commitment to follow the hard-won consumer protections for telephone consumers is fatal to the application. Even though competition is important, competition should not result in the sacrifice of the gains made by consumers for consumer protection. Section 392.185 (6), RSMo specifically places protection of the ratepayer and the public interest above the promotion of competition. Public Counsel is not willing to relinquish ---and the Commission should not waive or release ---these essential consumer protections for service quality, performance measures, billing and collection rights, complaint resolutions, and complaint processes that have been established for residential wireline customers just because the customers are now wireless customers. (Tr. 232)

There is also a lack of assurance that US Cellular will serve all qualified customers in its service areas. For example, in Grand River Mutual Company's area, US Cellular cannot serve 23 of the 30 exchanges. (Tr. 397) Section 214(e)(1), of the Telecommunications Act provides that in order to be designated an eligible telecommunications carrier that service has to be provided throughout the service area. U.S. Cellular provides very little service in Grand River's service area and certainly doesn't provide it throughout the service area. (Tr. 398)

Since USF is paid based on the billing address, payment for the wireless may be made when the phone is regularly used elsewhere. (Tr. 398) If the intent of the USF is to make telephone service universally available and to increase local telephone coverage, then that objective is not advanced by approval of US Cellular's ETC application.

The certification requirements in Section 392.451, RSMo. 2000 provides that the new provider must provide the essential services the incumbent provides. Section

392.451.1 (1) It must also provide the same service standard, service quality, billing standard, reporting requirements and abide by the same regulations and rules that govern the incumbent with which the alternative provider seeks to compete in the same territory. Section 392.451.2, RSMo.

Section 386.020 (4) provides the definition of "Basic local telecommunications service": two-way switched voice service within a local calling scope as determined by the commission comprised of any of the following services and their recurring and nonrecurring charges:

- (a) Multiparty, single line, including installation, touchtone dialing, and any applicable mileage or zone charges;
- (b) Assistance programs for installation of, or access to, basic local telecommunications services for qualifying economically disadvantaged or disabled customers or both, including, but not limited to, lifeline services and link-up Missouri services for low-income customers or dual-party relay service for the hearing impaired and speech impaired;
- (c) Access to local emergency services including, but not limited to, 911 service established by local authorities;
- (d) Access to basic local operator services;
- (e) Access to basic local directory assistance;
- (f) Standard intercept service;
- (g) Equal access to interexchange carriers consistent with rules and regulations of the Federal Communications Commission;
- (h) One standard white pages directory listing.

Basic local telecommunications service does not include optional toll free calling outside a local calling scope but within a community of interest, available for an additional monthly fee or the offering or provision of basic local telecommunications service at private shared-tenant service locations.

**PSC Rule 4 CSR 240-31.010 Definitions** (6) Essential local telecommunications services, defines them as two way switched voice residential service within a local calling scope as determined by the commission, comprised of the following services and their recurring charges:

- (A) Single line residential service, including Touch-Tone dialing, and any applicable mileage or zone charges;
- (B) Access to local emergency services including, but not limited to, 911 service established by local authorities;
- (C) Access to basic local operator services;
- (D) Access to basic local directory assistance;
- (E) Standard intercept service;
- (F) Equal access to interexchange carriers consistent with rules and regulations of the Federal Communications Commission (FCC);
- (G) One (1) standard white pages directory listing; and
- (H) Toll blocking or toll control for qualifying low-income customers.

A fundamental concern under the Federal Telecommunications Act of 1996 is that consumers have a choice and therefore it has a requirement that local exchange companies provide equal access to IXCs. Public Counsel submits that this equal access

mandate should be required of wireless carriers that seek to stand in the shoes of a wireline company for purposes of ETC and USF funding.

USF should not be used to support a level of services that is less than that demanded of the wireline companies, especially the incumbent ILEC. Public Counsel cannot support USF funding for the level of consumer protection that is less than that provided for the wireline customer. The Commission should not accept less.

For these reasons, US Cellular's application should be rejected.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing has been faxed, mailed, or hand-delivered to the following counsel of record on this 6th day of December 2005 :

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