

Exhibit No.:  
Issue: Other, Telephone Specific  
Witness: Adam C. McKinnie  
Sponsoring Party: MoPSC Staff  
Type of Exhibit: Supplemental Rebuttal Testimony  
Case No.: TO-2006-0172  
Date Testimony Prepared: May 19, 2006

MISSOURI PUBLIC SERVICE COMMISSION  
UTILITY OPERATIONS DIVISION

FILED

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Missouri Public  
Service Commission

SUPPLEMENTAL REBUTTAL TESTIMONY

OF

ADAM C. MCKINNIE

MISSOURI RSA NO. 5

CASE NO. TO-2006-0172

Jefferson City, Missouri  
May 19, 2006

**\*\*Denotes Highly Confidential Information\*\***

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Exhibit No. LO NP  
Case No(s) TO 2006-0172  
Date 6-22-06 Rptr KE

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

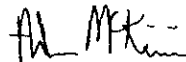
In the Matter of the Application of )  
Missouri RSA No. 5 Partnership for )  
Designation as a Telecommunications )  
Company Carrier Eligible for Federal )  
Universal Service Support Pursuant to § )  
254 of the Telecommunications Act of )  
1996. )

Case No. TO-2006-0172

**AFFIDAVIT OF ADAM C. MCKINNIE**

STATE OF MISSOURI    )  
                                  ) ss  
COUNTY OF COLE     )

Adam C. McKinnie, of lawful age, on his oath states: that he has participated in the preparation of the following Supplemental Rebuttal Testimony in question and answer form, consisting of 21 pages of Supplemental Rebuttal Testimony to be presented in the above case, that the answers in the following Supplemental Rebuttal Testimony were given by him; that he has knowledge of the matters set forth in such answers; and that such matters are true to the best of his knowledge and belief.



Adam C. McKinnie

Subscribed and sworn to before me this 16<sup>th</sup> day of May, 2006.



DAWN L. HAKE Notary Public

My Commission Expires  
March 16, 2009  
Cole County  
Commission #05407643



My commission expires \_\_\_\_\_



1 SUPPLEMENTAL REBUTTAL TESTIMONY

2  
3 OF

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5 ADAM C. MCKINNIE

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8 MISSOURI RSA NO. 5

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10 CASE NO. TO-2006-0172  
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14 **Introduction, Education and Experience**

15 Q. Are you the same Adam McKinnie who filed Rebuttal Testimony in this case on  
16 March 1, 2006?

17 A. Yes, I am.

18 Q. Have you filed any testimony in any other cases involving the designation of an  
19 eligible telecommunications carrier (ETC) since you filed Rebuttal Testimony in this case?

20 A. Yes, I have. On May 9, 2006, I filed Rebuttal Testimony in Case No.  
21 TO-2005-0466, *In the Matter of the Application of Northwest Missouri Cellular Limited*  
22 *Partnership for Designation as a Telecommunications Company Carrier Eligible for Federal*  
23 *Universal Service Support Pursuant to § 254 of the Telecommunications Act of 1996.*

24 Q. What is the purpose of your testimony?

25 A. The purpose of my testimony is to respond to the Supplemental Direct Testimony  
26 of Missouri RSA No. 5 Partnership (MO5) witnesses Simon and Reeves filed on April 17, 2006.  
27 My testimony will explain that MO5's supplemental direct testimony did not change Staff's  
28 recommendation to deny MO5's request for ETC status because MO5's submitted application,

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1 Direct Testimony, and Supplemental Direct Testimony still do not meet all the requirements of  
2 the MO ETC Rule.

3 **Previous Testimony**

4 Q. You state that MO5's supplemental direct testimony did not change your  
5 recommendation to deny MO5's request for ETC designation. Please summarize the reasons for  
6 the recommendation in your Rebuttal Testimony.

7 A. A summary of the warrants for the recommendation to not grant MO5's ETC  
8 request appeared in my Rebuttal Testimony, beginning on page 22, line 13:

9 I recommend the Commission not grant MO5 ETC status. While MO5  
10 has met almost all of the requirements of the five guidelines in the latest  
11 FCC Report and Order put forth for competitive ETC carriers and has  
12 provided information on potential creamskimming, there is concern  
13 regarding MO5's lack of commitment to spend all the USF monies it  
14 receives in the first two years. There is also a concern that MO5 will use  
15 USF support for "estimated taxes".

16 Q. Have your concerns been addressed with the additional information contained in  
17 the Supplemental Direct Testimony of MO5 Witnesses Simon and Reeves?

18 A. Not entirely. Some of the concerns addressed above in my Rebuttal Testimony  
19 have been addressed, however, there is still the fundamental problem "regarding MO5's lack of  
20 commitment to spend all the USF monies it receives in the first two years". There are also  
21 additional concerns regarding commitments required by the ETC rulemaking approved by the  
22 Commission in Case No. TX-2006-0169, as discussed below.

23 **Appropriate Guidelines**

24 Q. What guidelines did Staff use in evaluating MO5's ETC Application, Direct  
25 Testimony, and Supplemental Direct Testimony for the purpose of this testimony?

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1           A.     Staff used the guidelines set forth in the Missouri rulemaking for ETC  
2 designations in Case No. TX-2006-0169, *In the Matter of Proposed New Rule 4 CSR 240-3.570*  
3 *Regarding Eligible Telecommunication Carrier Designations for Receipt of Federal Universal*  
4 *Service Fund Support*. The Final Order of Rulemaking (MO ETC Rule) has been filed at the  
5 Secretary of State's office. The version of the rule included with the final order of rulemaking is  
6 included as schedule ACM-1.

7           Since the MO ETC Rule has been sent to the Office of the Secretary of State for final  
8 publication, Staff used that rule, along with any applicable sections of the Federal  
9 Telecommunications Act (The Act), as the basis for evaluating ETC applications in the state of  
10 Missouri.

11          Q.     Which portion of the MO ETC Rule is applicable to the evaluation of applications  
12 for ETC designation?

13          A.     Section (2) of the MO ETC Rule describes requirements for applications for  
14 requests to be designated as an ETC and is most applicable to the evaluation of such  
15 applications. Following is a discussion of the various portions of that section that caused  
16 concern when reviewing MO5's request for ETC designation.

17 **Staff Analysis**

18          Q.     What requirements of Section (2) of the MO ETC Rule does Staff conclude that  
19 MO5 meets without any further analysis or comment?

20          A.     Staff has reviewed MO5's application and pre-filed testimony and determined it  
21 meets the following requirements:

- 22           •     (2)(A)1. – Intended use of high-cost support;

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1 • (2)(A)3. subparagraphs A-E – A demonstration that universal service support  
2 shall be used to improve coverage, service quality or capacity on a wire center-by-wire center  
3 basis throughout the Missouri service area;

4 • (2)(A)4. – Ability to remain functional in an emergency;

5 • (2)(A)6. – Commitment to advertise;

6 • (2)(A)7. – Commitment to provide Lifeline and Link Up;

7 • (2)(A)9. – Acknowledgement of equal access requirements; and

8 • (2)(B) - A commitment to follow and a copy of the Cellular Telecommunications  
9 and Internet Association (CTIA) code.

10 Q. In Staff's opinion, what requirements of Section (2) are not met by MO5's  
11 application or pre-filed testimony?

12 A. Subsection (2)(A) of the MO ETC Rule describes materials and commitments that  
13 "shall" be included in an application requesting ETC designation. There are a few areas where  
14 MO5's discussion of the MO ETC Rule appeared confusing. Staff was able to clarify MO5's  
15 discussion of these areas through Data Requests. There were also a few areas that MO5 was  
16 clearly lacking in its commitments or demonstrations. Paragraph (2)(A)5. (public interest  
17 demonstration), paragraph (2)(A)8. (consumer privacy and service quality standards) and  
18 paragraph (2)(A)10. (local usage comparable to the ILECs) are areas where the NWMC  
19 application or pre-filed testimony does not meet the requirements of the MO ETC rule.

20 Q. What paragraphs and subparagraphs of subsection (2)(A) contained confusing  
21 information where Staff was able to receive additional information via Data Requests?

22 A. There were two areas of confusion. One area of confusion relates to subparagraph  
23 (2)(A)3.F., which states:

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1 If an applicant believes that service improvements in a particular wire  
2 center are not needed, it must explain its basis for this determination and  
3 demonstrate how funding will otherwise be used to further the provision  
4 of supported services in that area...

5 MO5 witness Simon states in his Supplemental Direct on page 4, starting on line 23 that,

6 While there are a few wire centers that have only minimal coverage  
7 improvement proposed through the addition of a new cell sites [sic], these  
8 wire centers are expected to receive improvements through the proposed  
9 capacity increases identified.

10 To provide further clarity, Staff issued a Data Request to MO5 asking that it define "these  
11 wire centers". In response to the Staff Data Request, MO5 stated that these wire centers are \*\*  
12 \_\_\_\_\_ \*\* With this additional information, MO5 satisfies the requirements of  
13 this subparagraph.

14 The full Data Request and Response are attached as Schedule ACM-2.

15 Q. Another area of confusion relates to subsection (2)(C) of the MO ETC Rule,  
16 which states:

17 Each request for ETC designation shall include a plan outlining the  
18 method for handling unusual construction or installation charges.

19 Q. Does MO5 provide any information regarding subsection (2)(C)?

20 A. Yes, MO5 does. In his Supplemental Direct Testimony, on page 13, beginning on  
21 line 9, MO5 witness Simon outlines a plan for handling unusual construction or installation.  
22 However, the requirement is to provide a plan for handling the charges associated with the  
23 unusual construction or installation. Because of the apparent misunderstanding of this section,  
24 Staff issued a Data Request to MO5 requesting clarification of the plan. In response to the Staff  
25 Data Request MO5 responded:

26 \*\*  
27 \_\_\_\_\_



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The full Data Request and Response are attached as Schedule ACM-3 (HC and NP versions).

Q. Does MO5 meet the requirements of subsection (2)(C)?

A. Yes, with the additional information obtained in response to Staff's Data Request, MO5 does meet the requirements of this subsection.

Q. You stated there were areas where MO5's application or pre-filed testimony were obviously lacking when it came to commitments or demonstrations required by the MO ETC Rule. Can you elaborate?

A. Yes, there were four areas where the application or pre-filed testimony is clearly lacking. These areas include a commitment to satisfy consumer protection standards, a commitment to offer a local usage plan comparable to the ILEC, a commitment to spend all monies received in the year they are received, and a demonstration that the ETC designation is in the public interest.

Q. The first area of concern is consumer privacy standards. Paragraph (2)(A)8. states that an Application shall include:

A statement that the carrier will satisfy consumer privacy protection standards as provided in 47 CFR 64 Subpart U and service quality standards as applicable.

Does MO5 meet this requirement?

A. No it does not. MO5 witness Simon discusses this paragraph in his Supplemental Direct Testimony beginning on page 8, line 22. While Mr. Simon discusses the lack of applicability of the "service quality standards" in great detail, and even states on page 10, line 10, that "MO 5 is in compliance with standards set forth in 47 CSR 64 Subpart U", he never

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1 makes a statement that MO5 will follow the “consumer privacy protection standards” denoted in  
2 the paragraph on a going forward basis. Without this explicit commitment, MO5 does not meet  
3 the requirements of this paragraph.

4 Q. Another area that MO5’s application or pre-filed testimony was lacking is in  
5 complying with Paragraph (2)(A)10. which requires:

6 A commitment to offer a local usage plan comparable to those offered by  
7 the incumbent local exchange carrier...

8 Does MO5 meet this requirement?

9 A. No it does not. MO5 witness Simon discusses this requirement in his  
10 Supplemental Direct Testimony, beginning on page 10, line 18. In his discussion, Mr. Simon  
11 provides many details about the uniqueness of MO5’s local usage plans, but never makes a  
12 commitment to offer a plan that will be comparable to the plans offered by the underlying ILECs  
13 and never affirmatively states that any of MO5’s local usage plans are comparable.

14 As I stated in my Direct Testimony, the local calling area that MO 5 will  
15 offer to subscribers will equal or exceed in size the calling area offered by  
16 the local LECs, which will reduce intra-LATA toll charges associated with  
17 the service offered by these wireline carriers. Customers of these LECs  
18 placing calls to destinations beyond their local calling areas incur toll  
19 charges, while MO 5 customers making similar calls within MO 5’s  
20 service area will avoid such charges. In addition, many of MO 5’s calling  
21 plans include bundles of minutes which can be used for placing calls,  
22 whether local or domestic toll, without the caller incurring any additional  
23 per minute charges or toll charges. MO 5’s plans also offer mobility  
24 including, in most cases roaming in other markets. Finally, MO 5 will  
25 make available multiple local usage plans that prospective customers can  
26 select from as part of its universal service offering.

27 Q. In Staff’s opinion, does MO5 offer a plan that is comparable to the plans offered  
28 by the underlying ILECs?

29 A. Yes, MO5 does. In Staff’s opinion, MO5’s “ILEC-Equivalent” plan as described  
30 in MO5 witness Simon’s Direct Testimony is comparable to the plans offered by the underlying

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1 ILECs. While this plan may not have the exact same characteristics as an underlying ILEC's  
2 "local usage plan", the price of \$15.00 per month is comparable to the prices for basic local  
3 residential service offerings for the underlying ILECs and the plan offers unlimited local calling.  
4 The plan also includes vertical features not included in the regular basic local residential service  
5 offerings of the underlying ILECs.

6 Q. Is Staff satisfied that MO5 meets the requirements of Paragraph 2(A)10.?

7 A. No. While MO5 describes an offering that Staff considers comparable to the  
8 underlying ILEC plans, MO5 never explicitly commits to offering a comparable plan as an on-  
9 going requirement of being designated an ETC. Without this explicit commitment, MO5 does  
10 not meet the requirements of this paragraph.

11 Q. You state that another area MO5's application or pre-filed testimony causes  
12 concern is MO5's lack of a demonstration that it will spend all high cost support in the year the  
13 money is received. Please explain Staff's concern.

14 A. Paragraph (2)(A)2. of the MO ETC Rule requires:

15 A two (2)-year plan demonstrating, with specificity, that high-cost  
16 universal service support *shall only be used* for the provision, maintenance  
17 and upgrading of facilities and services for which the support is intended  
18 in the Missouri service area in which ETC designation was granted.  
19 (emphasis added)

20 Furthermore, Subparagraph (2)(A)3.G. of the MO ETC Rule requires:

21 A statement as to how the proposed plans would not otherwise occur  
22 absent the receipt of high-cost support and that such support will be used  
23 in addition to any expenses the ETC would normally incur.

24 The two-year plan is a key component to the Commission's consideration of MO5's  
25 request for designation as an ETC. Therefore, it is important to highlight the high-cost support

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1 amounts MO5 intends to use to satisfy the requirements of paragraph (2)(A)2. and subparagraph  
2 (2)(A)3.G.

3 As stated in my Rebuttal Testimony beginning on page 20, line 14, MO5 originally  
4 planned to receive \$1,534,230 annually in USF high cost monies (Zentgraf Direct, p. 16, lines  
5 10-11). In Highly Confidential Appendix M attached to MO5 witness Simon's Supplemental  
6 Direct Testimony, MO5 witness Simon lists Estimated USF Support for "Budget Year 1" as  
7 \*\* \_\_\_\_\_ \*\* and Estimated USF Support for "Budget Year 2" as \*\* \_\_\_\_\_ \*\*

8 Continuing in Highly Confidential Appendix M, according to the row titled "TOTAL" at  
9 the bottom of the Appendix, MO5 plans to spend \*\* \_\_\_\_\_ \*\* on improvements in year one  
10 and \*\* \_\_\_\_\_ \*\* on improvements in year two. In other words, MO5 estimates it will  
11 receive \*\* \_\_\_\_\_ \*\* in year one, but will only spend \*\* \_\_\_\_\_ \*\* and MO5 estimates  
12 it will receive \*\* \_\_\_\_\_ \*\* in year two, but will only spend \*\* \_\_\_\_\_ \*\*. Clearly,  
13 MO5 is not committing to spend as much on improvements as it receives in high cost monies in  
14 either year one or year two.

15 The following is a table contrasting the amount of monies MO5 would expect to receive  
16 from the high cost USF fund and the amount MO5 has committed to spend:

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Budget Year	"Estimated USF Support"	"TOTAL" committed to be spent	Amount of Estimated Support not committed to be spent
One	** _____ **	** _____ **	** _____ **
Two	** _____ **	** _____ **	** _____ **
Three	** _____ **	** _____ **	** _____ <sup>1</sup> **

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3 Q. Does Staff have any additional concerns about the information in Simon's  
4 Appendix M?

5 A. Yes. Staff inquired about the definition of the term "Build Year" as used as a  
6 column header in Appendix M. In response to the Staff Data Request, MO5 responded:

7 \*\* \_\_\_\_\_  
8 \_\_\_\_\_  
9 \_\_\_\_\_ \*\* (emphasis  
10 added)

11 (The full Data Request and Response are attached as Schedule ACM-4, HC and NP  
12 versions.)

13 To explain why this terminology causes concern, Staff will cite an example from the  
14 Appendix. The sixth row of Appendix M references a site entitled \*\* \_\_\_\_\_  
15 \_\_\_\_\_ \*\*. According to the column entitled "Build Year", the construction of this site will  
16 begin \*\* \_\_\_\_\_ \*\*. According to the column entitled "Estimated in Service",  
17 the site will be operative \*\* \_\_\_\_\_ \*\* from the start time of construction. Assuming  
18 construction began on the first day of the \*\* \_\_\_\_\_ \*\* after grant, the final \*\* \_\_\_\_\_ \*\*  
19 of work preparing the site to be "in service" would occur in year two of the grant of ETC

<sup>1</sup> Due to a math error, this amount is listed as \*\* \_\_\_\_\_ \*\* on page 19, line 19 of my Rebuttal Testimony.

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1 designation. However, according to the definition presented above by MO5, \*\* \_\_\_\_\_

2 \_\_\_\_\_  
3 \_\_\_\_\_ \*\*. This serves to further distort the amount of  
4 support received when compared to the actual expenses incurred in any funding year.

5 Q. With the above concerns having been stated, can Staff say that MO5 meets the  
6 requirements of paragraph (2)(A)2.?

7 A. No. Staff cannot state with certainty that for either year one or year two “that  
8 high-cost universal service support *shall only be used* for the provision, maintenance and  
9 upgrading of facilities and services for which the support is intended in the Missouri service area  
10 in which ETC designation was granted”. (paragraph (2)(A)2., emphasis added)

11 Q. With the above concerns having been stated, can Staff say that MO5 meets  
12 subparagraph (2)(A)3.G.?

13 No, Staff cannot. Based on the representations in Appendix M in MO5 witness Simon’s  
14 Supplemental Direct Testimony, Staff cannot state for certain that all funds MO5 expects to  
15 receive in year one or year two will be spent on appropriate items; thus, there is no  
16 demonstration currently for either year one or year two that “such support will be used in  
17 addition to any expenses that the ETC would normally incur.” (subparagraph (2)(A)3.G.)

18 **Public Interest**

19 Q. In terms of evaluating an application for designation as an ETC, does the MO  
20 ETC Rule contain any language about the public interest?

21 A. Yes, it does. Paragraph (2)(A)5 of the MO ETC Rule requires:

22 5. A demonstration that the commission’s grant of the applicant’s request  
23 for ETC designation would be consistent with the public interest,  
24 convenience and necessity;

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1 Q. Is there any guidance as to what state commissions should consider in deciding  
2 whether or not an ETC application is in the public interest?

3 A. Yes, there is. On March 17, 2005, the FCC released a decision<sup>2</sup> regarding how  
4 the FCC would evaluate applications before the FCC when applying for ETC status, and  
5 recommending that the states use similar guidelines. The MO ETC Rule largely, but not entirely,  
6 follows the Report and Order.

7 Q. What guidance does the Report and Order give regarding a public interest  
8 analysis?

9 A. Paragraph 41 of the Report and Order states:

10 41. In instances where the Commission has jurisdiction over an ETC  
11 applicant, the Commission in this Report and Order adopts the fact-  
12 specific public interest analysis it has developed in prior orders. First, the  
13 Commission will consider a variety of factors in the overall ETC  
14 determination, including the benefits of increased consumer choice, and  
15 the unique advantages and disadvantages of the competitor's service  
16 offering. Second, in areas where an ETC applicant seeks designation  
17 below the study area level of a rural telephone company, the Commission  
18 also will conduct a creamskimming analysis that compares the population  
19 density of each wire center in which the ETC applicant seeks designation  
20 against that of the wire centers in the study area in which the ETC  
21 applicant does not seek designation. Based on this analysis, the  
22 Commission will deny designation if it concludes that the potential for  
23 creamskimming is contrary to the public interest. The Commission plans  
24 to use this analysis to review future ETC applications and strongly  
25 encourages state commissions to consider the same factors in their public  
26 interest reviews. (footnotes omitted)

27 The footnote to the "prior orders" the FCC references in the above paragraph refers to  
28 both the *Virginia Cellular ETC Designation Order* (FCC 03-338, CC Docket 96-45, Released  
29 January 22, 2004) and the *Highland Cellular ETC Designation Order* (FCC 04-37, CC Docket  
30 96-45, Released April 12, 2004).

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<sup>2</sup> Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, FCC-05-46. Rel. March 17, 2005. ("*Report and Order*").

1 Q. Were there any specific public interest guidelines set forth in the *Virginia Cellular*  
2 Order?

3 A. Yes, there were. The FCC, in paragraph 28 of the *Virginia Cellular* Order, wrote:

4 In considering whether designation of Virginia Cellular as an ETC will  
5 serve the public interest, we have considered whether the benefits of an  
6 additional ETC in the wire centers for which Virginia Cellular seeks  
7 designation outweigh any potential harms. We note that this balancing of  
8 benefits and costs is a fact-specific exercise. *In determining whether*  
9 *designation of a competitive ETC in a rural telephone company's service*  
10 *area is in the public interest, we weigh the benefits of increased*  
11 *competitive choice, the impact of the designation on the universal service*  
12 *fund, the unique advantages and disadvantages of the competitor's service*  
13 *offering, any commitments made regarding quality of telephone service,*  
14 *and the competitive ETC's ability to satisfy its obligation to serve the*  
15 *designated service areas within a reasonable time frame.* (italics added)

16 The same italicized phrase is contained in paragraph 22 of the *Highland Cellular* Order.

17 The items in the italicized phrase above were used in Staff's determination of whether or  
18 not MO5's application is in the public interest.

19 Q. What information does MO5 provide as a "demonstration that the Commission's  
20 grant of the applicant's request for ETC designation would be consistent with the public interest,  
21 convenience, and necessity"?

22 A. MO5 witness Simon, in his Supplemental Direct Testimony, on page 6, beginning  
23 on line 21, writes:

24 **Q. Will MO 5 Comply with 2.A.5.- A demonstration that the**  
25 **commission's grant of the applicant's request for ETC designation**  
26 **would be consistent with the public interest, convenience and**  
27 **necessity?**

28 A. MO 5 has brought wireless service to many rural parts of its FCC-  
29 licensed service area and offers a level of coverage better than its  
30 competitors in the market. As extensive as MO 5's coverage is in this  
31 market, there are still significant portions of its FCC-licensed service area  
32 that would greatly benefit from enhanced GSM coverage. These represent  
33 some of the most rural portions of its licensed market. Perhaps even more



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1 important than the general availability of enhanced wireless services, the  
2 expansion of MO 5's service into these most rural areas would bring  
3 wireless E911 services to those areas. While the ILECs have done an  
4 outstanding job of bringing 911 and E911 to many rural communities,  
5 access to those lifesaving services is limited to the ability of the person in  
6 need to reach a wired telephone. In sharp contrast, wireless  
7 communication brings the emergency access to the individual. The farmer  
8 with a CMRS phone who is injured in the field no longer needs to be able  
9 to reach a wired telephone to summon help. Wireless access to emergency  
10 services can help to mitigate the unique risks of geographic isolation  
11 associated with living in rural communities. Significantly, wireless E911  
12 service is not limited to MO 5 subscribers. MO 5's wireless E911 service  
13 is available to any compatible handset in MO 5's coverage area, whether  
14 or not the user is a MO 5 customer, the customer of a competitor or not  
15 even a customer of any service provider. The MO 5 network routes all 911  
16 calls regardless of the status of the caller. This is even true for a customer  
17 whose wireless phone service has been disconnected. MO 5 routes the call  
18 to the emergency personnel and provides information with respect to the  
19 cell site location from where the call originated and, except with respect to  
20 a non-activated cell phone, such as a phone that is sold for placing 911 calls  
21 only, a call back number.

22 Q. Can you briefly summarize the public interest benefits stated in the above  
23 excerpt?

24 A. Yes. Mr. Simon identifies the following public interest benefits: "enhanced"  
25 Global System for Mobile Communications (GSM) coverage for "significant portions of  
26 [MO5]'s FCC-licensed area"; and access to E-911 services for "significant portions of [MO5]'s  
27 FCC-licensed area" from this "enhanced GSM coverage", even if the caller to 911 does not  
28 subscribe to MO5's service.

29 Q. In addition to the public interest analysis Mr. Simon provides in his Supplemental  
30 Direct Testimony, what information regarding the public interest is contained within his Direct  
31 Testimony?

32 A. On page 9 of his Direct Testimony, beginning on line 15, MO5 witness Simon  
33 writes:

1           **Q.    MO 5 is already providing the services required for ETC**  
2           **designation and has apparently done so for years without USF**  
3           **support. Why would it be in the public interest to now afford USF**  
4           **support to MO 5?**

5           A.    MO 5 has brought wireless service to many rural parts of its FCC-  
6           licensed service area and offers a level of coverage better than its  
7           competitors in the market. The cost of providing those services continues  
8           to rise. However, in the highly competitive wireless service market of  
9           today, it is not enough for MO 5 to offer better coverage if its service  
10          offerings are not competitive with respect to features, functionality and  
11          price. Unlike MO 5's wireless competitors that also have licenses in major  
12          urban areas, MO 5 is only licensed to offer commercial mobile radio  
13          service ("CMRS") in Missouri RSA 5. The higher-cost of providing  
14          service in this rural area must be supported solely from revenues derived  
15          in this market. Yet, for competitive reasons, MO 5 has to match the  
16          pricing offered by the major nationwide carriers who typically choose to  
17          offer quality services only along the major traffic arteries and largest  
18          population centers in the rural markets.

19          MO 5 is also incurring increased costs to meet its obligations to comply  
20          with federal mandates such as E911 services. These services are critical to  
21          public safety in general but their availability in the rural-most portions of  
22          the service area is imperative.

23          As extensive as MO 5's coverage is in this market, there are still  
24          significant portions of its FCC-licensed service area that would greatly  
25          benefit from enhanced GSM coverage. These represent some of the most  
26          rural portions of its licensed market and are detailed in the Application at  
27          Appendix E. Application Appendix F identifies a proposed five year  
28          build-out plan of additional cell site sets that MO 5 would deploy if  
29          granted ETC designation. The construction timeline for each cell site was  
30          prepared under my direct supervision. MO 5's technical consultant,  
31          Jonathon D. Reeves, has provided testimony including an engineering  
32          analysis of the proposed coverage from each new cell site, on a wireline-  
33          by-wireline basis as well as Application Appendices G, H and I which are  
34          maps depicting the general area where MO 5 would look to deploy  
35          additional cell sites over the next five years, based upon my direction, as  
36          well as the coverage associated with those new sites alone and in  
37          conjunction with the existing MO 5 cell sites. Since MO 5 would not  
38          receive USF support based upon its own cost but would be limited to  
39          support based upon the various underlying LEC levels of support, MO 5  
40          would have to time the construction of its facilities to the amount of  
41          support actually received and the order of construction between the  
42          proposed sites, which are based upon our current projection of customer  
43          demand, could be altered if actual customer demand varies from those

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1 projections. It should be noted that the customer demand would only  
2 affect the order of construction of new cell sites and not amount of USF  
3 support that would be spent on network enhancement.

4 Perhaps even more important than the general availability of enhanced  
5 wireless services, the expansion of MO 5's service into these most rural  
6 areas would bring wireless E911 services to those areas. While the ILECs  
7 have done an outstanding job of bringing 911 and E911 to many rural  
8 communities, access to those lifesaving services is limited to the ability of  
9 the person in need to reach a wired telephone. In sharp contrast, wireless  
10 communication brings the emergency access to the individual. The farmer  
11 with a CMRS phone who is injured in the field no longer needs to be able  
12 to reach a wired telephone to summon help. Wireless access to emergency  
13 services can help to mitigate the unique risks of geographic isolation  
14 associated with living in rural communities.

15 Once E911 Phase II service becomes available, the MO 5 network would  
16 be capable of providing locational information for all calls placed to 911.  
17 However, since there are no GSM handsets that are capable of providing  
18 handset-assisted services, the deployment of an E911 solution requires a  
19 network-based solution. As Mr. Reeves testifies, such solutions provide  
20 increased accuracy as the number of available cell sites for triangulation  
21 increase. Accordingly, the available accuracy of the locational service  
22 would be dramatically increased if MO 5 were designated as an ETC and  
23 was therefore able to deploy the additional cell sites identified in MO 5's  
24 proposed 5 year network-enhancement plan. The cell sites set forth in that  
25 plan would not be deployed absent USF support.

26 Significantly, wireless E911 service would not be limited to MO 5  
27 subscribers. MO 5's wireless E911 service is available to any compatible  
28 handset in MO 5's coverage area, whether or not the user is a MO 5  
29 customer, the customer of a competitor or not even a customer of any  
30 service provider. The MO 5 network routes all 911 calls regardless of the  
31 status of the caller. This is even true for a customer whose wireless phone  
32 has been disconnected. With respect to Phase II services, unlike the case  
33 of technologies that use handset-based solutions, the MO 5 network will  
34 be capable of providing locational services in conjunction with E911 calls  
35 to any mobile that is compatible with the MO 5 network, whether or not  
36 the particular handset caller's handset is ALI-capable. With the exception  
37 of a non-activated cell phone, such a phone that is sold for placing 911  
38 calls only, MO 5 provides the PSAP with a call back number for all E911  
39 calls (Phase I or Phase II)

40 Q. Can you briefly summarize the public interest benefits stated in the above

41 excerpt?

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1           A.     Yes. Mr. Simon identifies the following public interest benefits: the need to  
2 subsidize service for a company who only serves in rural areas; the need to subsidize unfunded  
3 federal mandates, such as E911; enhanced GSM coverage, which would help in triangulating the  
4 location of individuals making calls to 911, providing potentially increased accuracy to public  
5 safety answering points (PSAPs); enhancements that wouldn't be built without the USF monies;  
6 other E-911 benefits, even to users who do not subscribe to MO5's services.

7           Q.     Does MO5 provide any additional information about a public interest analysis?

8           A.     Yes. In its original Application, beginning on page 16, MO5 discusses some  
9 additional public interest benefits. Briefly, these include: "enhanc[ing] consumer welfare"  
10 through the benefits of increased competition, such as an incentive for ILECs to modernize their  
11 network or increased rate competition and completing its changeover from its time division  
12 multiple access (TDMA) network to a GSM network.

13          Q.     Can you evaluate the submitted information of MO5 using the FCC-  
14 recommended five factors to determine if MO5 has made a "demonstration" of "public interest  
15 convenience, and necessity"?

16          A.     Yes, I can.

17          1.     "the benefits of increased competitive choice"

18          Consumers will benefit from having an additional choice of telecommunications  
19 providers in locations where MO5 does not currently offer service but would offer service after  
20 the implementation of its 5-year plan. Areas where MO5 currently does not offer GSM service  
21 are identified as white spaces in Highly Confidential Appendix N attached to NWMC witness  
22 Reeves' Supplemental Direct Testimony. Those areas that will receive service after  
23 implementation of the 5 year plan are changed to green spaces in Highly Confidential Appendix

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1 I attached to the original MO5 Application. Consumers who currently are able to receive MO5's  
2 GSM service will receive no additional benefit.

3 While MO5 provides information on this aspect of the public interest standard, the FCC  
4 noted that increased competition in of itself is not sufficient to meet the public interest standard.

5 Paragraph 4 of the *Virginia Cellular* Order states:

6 We conclude that the value of increased competition, by itself, is not  
7 sufficient to satisfy the public interest test in rural areas.

8 2. "the impact of the designation on the universal service fund"

9 According to MO5 witness Zentgraf's Direct Testimony, on page 16, lines 10-11, MO5  
10 expects to receive \$1,534,230 annual in total USF support. NWMC witness Zentgraf states that  
11 NWMC's expected portion of the fund is .0358% of the total high cost USF support.

12 Later, in Highly Confidential Appendix M attached to MO5 witness Simon's  
13 Supplemental Direct Testimony, MO5 is said to expect to receive \*\* \_\_\_\_\_ \*\* of support in  
14 year one and \*\* \_\_\_\_\_ \*\* of support in year two. No analysis is provided regarding the  
15 potential impact of those figures.

16 As Ms. Zentgraf cites in her Direct Testimony, the FCC discussed the impact of each  
17 ETC designation in paragraph 54 of the *Report and Order*:

18 Indeed, given the size of the total high-cost fund — approximately \$3.8  
19 billion a year — it is unlikely that any individual ETC designation would  
20 have a substantial impact on the overall size of the fund. (footnote  
21 omitted)

22 3. "the unique advantages and disadvantages of the competitor's service offering"

23 MO5 cites the ability to make E-911 calls resulting from enhanced GSM coverage as a  
24 public interest benefit of its application, as well as the ability to better pinpoint the physical  
25 location of a caller using MO5's GSM technology. Staff agrees that the ability to call 911 from a

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1 wireless telephone is a very important public interest and public safety consideration, and that  
2 the benefits from having an enhanced 911 (or "E-911") system are significant. However, if a  
3 wireless carrier other than MO5 provides wireless coverage, especially GSM, in areas where  
4 MO5 does not currently provide GSM coverage, residents already reap the benefits of calling  
5 911. If the area already has a wireless carrier providing E-911 service, the benefits of granting  
6 ETC designation to MO5 are further reduced. Unfortunately, it is difficult to determine the  
7 benefit of an additional wireless network. As wireless networks are prone to "dead spots" and  
8 coverage gaps, it is possible that a redundant network would improve E-911 or 911 coverage to  
9 areas within MO5's proposed ETC designation areas. There are certainly public interest benefits  
10 in improving 911 and E-911 coverage in this manner. However, MO5 has provided no evidence  
11 about the current status of 911 or E-911 wireless coverage in its requested ETC designation  
12 areas. Without this information, it is difficult to fully evaluate the increased benefits from  
13 MO5's proposed network expansion.

14 4. "any commitments made regarding quality of telephone service"

15 The MO ETC Rule itself has several areas regarding quality of service. For example,  
16 subsection (2)(B) requires prospective CMRS ETC applicants to commit to the consumer code of  
17 the Cellular Telecommunications and Internet Association (CTIA code). MO5 has committed to  
18 abiding by the CTIA code.

19 5. "the competitive ETC's ability to satisfy its obligation to serve the designated  
20 service areas within a reasonable time frame"

21 MO5 is already serving much of its designated service area so this portion of analysis is  
22 somewhat moot. However, MO5 has submitted a five-year plan to indicate where network  
23 improvements will be made throughout their service area. While it does not appear there are

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1 large coverage gaps in the proposed ETC area, MO5 certainly works towards filling those gaps.  
2 As MO5 has not committed to using all of its monies it expects to receive for service  
3 enhancements for the first two years of its proposed build out plan, MO5 is not moving towards  
4 “serving the designated service areas” as fast as it possibly could.

5 Q. After evaluating the public interest benefits through the FCC guidelines, what  
6 ultimate recommendation does Staff have regarding whether or not MO5 has made a  
7 “demonstration” of their application being “consistent with the public interest, convenience and  
8 necessity”?

9 A. MO5 has not made the necessary demonstration. First and foremost, MO5 has  
10 not committed to spending all the monies it estimates to receive on supported services in year  
11 one and year two of its proposed build out plan. There are also still important considerations  
12 regarding commitments not made in the MO ETC Rule. Because of these concerns, Staff cannot  
13 say that MO5 has demonstrated their application is in the public interest.

14 Q. Paragraph 41 of the *Report and Order* also states the FCC will conduct a  
15 creamskimming analysis in areas where an applicant requests a study area smaller than the  
16 service area of a rural ILEC. Has MO5 performed such a study?

17 A. Yes. The study begins on page 11 of the Application and is further discussed in  
18 MO5 witness Reeves’ testimony beginning on page 4, line 13.

19 Q. Is Staff satisfied that creamskimming is not an issue in this case?

20 A. Yes, Staff is satisfied.

21 **Conclusion**

22 Q. Based on Staff’s analysis, does Staff recommend the Commission grant MO5’s  
23 request to be granted as an ETC?

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1           A.     No, Staff does not.   MO5 has not made all of the commitments and  
2 demonstrations necessary to satisfy the requirements of the MO ETC Rule, specifically in the  
3 areas of consumer protection and committing to offering a comparable local usage plan.  Further,  
4 the documentation MO5 has provided regarding its intended use of high-cost support does not  
5 demonstrate a commitment to spend all estimated USF monies on supported services in year one  
6 and year two of the plan.  Finally, additional information on the current wireless 911 and E-911  
7 coverage would be beneficial.  Both the demonstration that all estimated USF monies will be  
8 spent for the provision, maintenance, and upgrading of facilities and services in its Missouri  
9 service area, as well as, the additional information on wireless 911 and E-911 coverage would  
10 assist the Commission in properly evaluating whether MO5 has met the public interest  
11 demonstration requirement.  As the applicant had the finalized MO ETC Rule language available  
12 during the evidentiary process, Staff based its recommendation on its interpretation of the rule  
13 which was sent to the Secretary of State's Office for final publication.  Application of the rule in  
14 the instant case will establish a standard for future ETC designation cases before the  
15 Commission.

16           Q.     Does this end your testimony?

17           A.     Yes, it does.



**Title 4—Rules of Department of Economic Development  
Division 240—Public Service Commission  
Chapter 3 – Filing and Reporting Requirements**

**ORDER OF RULEMAKING**

**4 CSR 240-3.570 Requirements for Carrier Designation as Eligible Telecommunications Carriers**

- (1) For purposes of this rule, the following definitions apply.
- (A) Alternative local exchange telecommunications company (ALEC) is as defined in Section 386.020(1) RSMo.
  - (B) Commercial mobile radio service (CMRS) provider provides service as identified in 47 C.F.R. Parts 20 and 24.
  - (C) Eligible telecommunications carrier (ETC) is a carrier designated as such by the Missouri Public Service Commission pursuant to 47 USC 214(e) in order to receive universal service support. Eligible telecommunications carrier (ETC) shall refer to alternative local exchange carriers and commercial mobile radio service providers and shall not include incumbent local exchange carriers unless otherwise specified.
  - (D) Incumbent local exchange telecommunications company is as defined in Section 386.020(22) RSMo.
  - (E) Reasonable request for service refers to a request for service of a type and quantity that is not in excess of service which is normally requested by like customers and is for service at a location within the carrier's designated service area.
- (2) Applications for designation as an ETC.
- (A) Each request for ETC designation shall include:
    - 1. Intended use of the high-cost support, including detailed descriptions of any construction plans with start and end dates, populations affected by construction plans, existing tower site locations for CMRS cell towers, and estimated budget amounts;
    - 2. A two (2)-year plan demonstrating, with specificity, that high-cost universal service support shall only be used for the provision, maintenance and upgrading of facilities and services for which the support is intended in the Missouri service area in which ETC designation was granted.
      - A. For purposes of this section, "support is intended" is defined consistent with the Telecommunications Act which outlines the following principles:
        - (I) Quality and rates – quality services should be available at just, reasonable, and affordable rates.
        - (II) Access to advanced services – access to advanced telecommunications and information services should be provided in all regions of the State.
        - (III) Access in rural and high cost areas – Consumers in all regions of Missouri, including those in rural, insular and high cost areas

will have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.

3. The two (2)-year plan shall include a demonstration that universal service support shall be used to improve coverage, service quality or capacity on a wire center-by-wire center basis throughout the Missouri service area for which the requesting carrier seeks ETC designation including:
  - A. A detailed map of coverage area before and after improvements and in the case of CMRS providers, a map identifying existing tower site locations for CMRS cell towers;
  - B. The specific geographic areas where improvements will be made;
  - C. The projected start date and completion date for each improvement;
  - D. The estimated amount of investment for each project that is funded by high-cost support;
  - E. The estimated population that will be served as a result of the improvements;
  - F. If an applicant believes that service improvements in a particular wire center are not needed, it must explain its basis for this determination and demonstrate how funding will otherwise be used to further the provision of supported services in that area; and
  - G. A statement as to how the proposed plans would not otherwise occur absent the receipt of high-cost support and that such support will be used in addition to any expenses the ETC would normally incur.
4. A demonstration of the carrier's ability to remain functional in emergency situations, including a demonstration that the carrier has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities and is capable of managing traffic spikes resulting from emergency situations;
5. A demonstration that the commission's grant of the applicant's request for ETC designation would be consistent with the public interest, convenience and necessity;
6. A commitment to advertise the availability of services and charges therefore using media of general distribution throughout the ETC service area;
7. A commitment to provide Lifeline and Link Up discounts consistent with 47 CFR 54.401 and 47 CFR 54.411. Each request for ETC designation shall include a commitment to publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service consistent with 47 CFR 54.405;
8. A statement that the carrier will satisfy consumer privacy protection standards as provided in 47 CFR 64 Subpart U and service quality standards as applicable;

9. A statement that the requesting carrier acknowledges it shall provide equal access pursuant to 4 CSR 240-32.100(3) and (4) if all other ETCs in that service area relinquish their designations pursuant to section 214(e) of the Telecommunications Act of 1996; and
  10. A commitment to offer a local usage plan comparable to those offered by the incumbent local exchange carrier in the areas for which the carrier seeks designation. Such commitment shall include a commitment to provide Lifeline and Link Up discounts and Missouri Universal Service Fund (MoUSF) discounts pursuant to Chapter 4 CSR 240-31, if applicable, at rates, terms and conditions comparable to the Lifeline and Link Up offerings and MoUSF offerings of the incumbent local exchange carrier providing service in the ETC service area.
- (B) Each request for ETC designation by a CMRS provider shall include a commitment to abide by the consumer code for wireless service recognized by the Cellular Telecommunications and Internet Association (CTIA) at the time of the ETC designation request. As part of the initial application, a CMRS provider shall include a copy of the consumer code for wireless service currently recognized by CTIA to which it commits to abide. Any CMRS provider designated as an ETC shall file with the Commission, any change(s) to the consumer code for wireless service included with its application or any subsequent code approved under this section of the rule, within 30 days of the change(s). The Commission shall allow interested parties 30 days to provide comment as to whether the CMRS provider should be required to commit to the proposed changes, or should continue to abide by the consumer code for wireless service currently approved for that provider.
- (C) Each request for ETC designation shall include a plan outlining the method for handling unusual construction or installation charges.
- (3) Service Requirements of ETCs
- (A) ETCs shall develop a bill design that can be easily interpreted by their customers and clearly sets forth charges in compliance with state and federal billing requirements.
  - (B) ETCs shall provide customer service contact information online and on billing statements. This requirement also applies to ETCs that use a third party billing agent.
  - (C) Service Provisioning Commitment
    1. ETC shall make available to each end-user subscribing to its supported services within its ETC designated service area the following service features:
      - A. Dual tone multi-frequency signaling or its functional equivalent;
      - B. Single-party service or its functional equivalent;
      - C. Access to emergency services;
      - D. Emergency telephone number services capable of automatic number identification, automatic location identification and call routing facilities to facilitate public safety response; e.g., Enhanced 911 Service, where the local government agency serving the end-user has implemented enhanced 911 systems;
      - E. Access to interexchange service;

- F. Access to telecommunications relay services by dialing 711;
  - G. Access to Directory Assistance service;
  - H. Access to operator services; and
  - I. Toll limitation and/or blocking for qualifying low-income consumers.
2. ETCs shall publicize the construction of all new facilities that will enhance services in unserved or underserved areas so that consumers are aware of the improved service in the area.
  3. ETCs shall extend their networks to serve new customers upon a reasonable request. ETCs shall take the following steps, as applicable, to respond to all such reasonable requests for service within its ETC service area.
    - A. If a request comes from a customer residing within the ETC service area where the ETC already provides service, the ETC shall immediately provide service using its standard customer equipment.
    - B. If a request comes from a customer residing within the ETC service area where the ETC does not already provide service, the ETC shall take reasonable steps to provide acceptable service at no cost to the customer, including: modifying or replacing customer equipment; deploying a roof-mounted antenna or other network equipment at the premises; making adjustments at the nearest cell site or to other network or customer facilities; employing, leasing or constructing an additional cell site, a cell-extender, repeater or other similar equipment; or offering resold service of other carriers that have facilities available to that premises.
    - C. Where special conditions or special requirements of the customer involve unusual construction or installation costs, the customer may be required to pay a reasonable portion of such costs in accordance with the plan outlining the method for handling unusual construction or installation charges approved by the commission at the time of designation as an ETC.
    - D. If there is no possibility of providing service to the requesting customer, the ETC shall notify the customer and include such information in its annual certification documentation to the Commission.
- (D) Within thirty (30) days of receiving ETC status, each CMRS carrier designated as an ETC shall make an informational filing with the commission consisting of a complete description of all of its service offerings. Such informational filings will be amended as service offerings are introduced or modified.
- (E) ETCs shall maintain a record of customer complaints that have been received by the company in a manner that includes, at a minimum: the end-user name; the account number; a description of the complaint; the date the complaint was filed; the resolution; and the amount of refund or credit, if any. ETCs shall also maintain a record of complaints from consumers in the Missouri service area in which ETC designation was granted that have been submitted to or filed with the Federal Communications Commission for which the company has knowledge in a manner that includes, at a minimum: a description of the complaint; the date the complaint was filed; the date the complaint was resolved; the resolution of the complaint and the amount of refund or credit, if any.

(F) ETCs shall, within ten (10) days of a change in the company-designated contacts, either notify the manager of the Telecommunications Department, in writing or by electronic mail, or shall update the commission's electronic filing system (EFIS). The notification or update shall include the name(s), address(es) and/or telephone number(s) of the designated individual(s). The contact name(s) provided pursuant to this section shall be the individual(s) primarily responsible for: customer service; repair and maintenance; answering complaints; authorizing and/or furnishing refunds to customers; and informational or tariff filing issues.

(4) Annual Filing Requirements for ETCs.

(A) All ETCs, including incumbent local exchange telecommunications carriers that receive federal high cost support, shall, by August 15 of each year, submit an affidavit executed by an officer of the Company attesting that federal high-cost support is used consistent with the commission's rules and the Telecommunications Act of 1996. The affidavit will be accompanied by documentation of support received and costs incurred. The commission or its staff may request additional information regarding the annual certification. Questions regarding the appropriate documentation for ETCs should be directed to the Commission's Telecommunications Department.

(B) ETCs seeking certification by October 1 of each year shall, no later than June 15 of each year, set up a meeting with the Telecommunications Department Staff and the Office of the Public Counsel to review and discuss the ETC's proposal for the two-year improvement plan. The meeting shall include a discussion of the proposed plan and any changes to the plan that would improve coverage, service quality or capacity in unserved or underserved areas in the Missouri service area in which ETC designation was granted.

1. A two (2)-year improvement plan shall include progress updates on any previously submitted plan. The two (2)-year improvement plan shall include, with specificity, proposed improvements or upgrades to the carrier's network on a wire center-by-wire center basis throughout its proposed designated service area and address all of the separate components addressed in the initial plan, set forth in (2)(A)2. above.
2. Reports on unfilled service requests and customer complaints for the previous year and how the two (2)-year improvement plan may address such requests and complaints.

(C) ETCs shall submit a demonstration that the receipt of high-cost support was used only for the provision, maintenance and upgrading of facilities and services for which the support is intended in the Missouri service area in which ETC designation was granted.

A. For purposes of this section, "support is intended" is defined consistent with the Telecommunications Act which outlines the following principles:

(I) Quality and rates – quality services should be available at just, reasonable, and affordable rates.

(II) Access to advanced services – access to advanced telecommunications and information services should be provided in all regions of the State.

(III) Access in rural and high cost areas – Consumers in all regions of Missouri, including those in rural, insular and high cost areas will have access to telecommunications and information services,

including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.

- (D) ETC shall submit a demonstration that high-cost support was used to improve coverage, service quality or capacity in the Missouri service area in which ETC designation was granted and that such support was used in addition to any expenses the ETC would normally incur;
- (E) ETCs shall submit an affidavit signed by an officer of the company certifying that the ETC continues to comply with the approved consumer code for wireless service recognized by the Cellular Telecommunications and Internet Association (CTIA) and/or applicable service quality standards and consumer protection rules, certifying that the ETC continues to be able to function in emergency situations, continues to offer a local usage plan comparable to that offered by the incumbent local exchange telecommunications carrier in the relevant service areas (if applicable), and continues to acknowledge that it shall provide equal access pursuant to 4 CSR 240-32.100(3) and (4) if all other ETCs in that service area relinquish their designations pursuant to section 214(e)(3) of the Telecommunications Act of 1996;
- (F) ETCs shall submit a report of complaints from consumers in the Missouri service area in which ETC designation was granted that have been submitted to or filed with the Federal Communications Commission in the previous twelve (12) months for which the company has knowledge. Such report shall include, at a minimum: a description of the complaint; the date the complaint was filed; the date the complaint was resolved; the resolution of the complaint and the amount of refund or credit, if any. If the Commission finds the ETC's resolution of complaints is not satisfactory or if a particular type of complaint is recurring without being satisfactorily addressed, then the Commission may decline to certify the ETC during the annual certification process.
- (G) An application for ETC designation shall be deemed to be acceptance of Missouri Public Service Commission jurisdiction over any issues related to ETC designation and status and USF funding and acceptance of additional rules made applicable to that ETC.
- (H) All ETCs, including incumbent local exchange telecommunications carriers, in non-rural areas of Missouri shall, in conjunction with the annual high-cost certification process, assist the commission staff in comparing residential rates in rural areas served by non-rural incumbent local exchange carriers to urban rates nationwide.
- (I) All reports required to be submitted to the commission shall be attested to by an officer or authorized agent of the ETC or incumbent local exchange telecommunications carrier.
- (J) Except as otherwise provided in commission rules, ETCs shall keep all books and records associated with its ETC designation and/or the commission's annual certification process in accordance with good business practices, and at such place as they are normally kept in the usual course of business. The ETC shall make its books and records associated with its ETC designation and/or the commission's annual certification process available to the commission at reasonable times for examination and inspection at a location designated by the commission.
- (K) All records required by this rule shall be preserved for at least two (2) years.

- (L) ETCs, or carrier requesting ETC designation, shall promptly furnish requested information, including financial information, related to its designation as an ETC to the commission, its staff or the Office of the Public Counsel.
  
- (5) Additional Requirements.
  - (A) Each CMRS provider shall submit to the Commission a letter reflecting a change to the name and/or change, deletion or addition of a trade name under which the ETC will be doing business in the state of Missouri, attaching, as applicable, an amended Certificate of Incorporation, Fictitious Name registration or an amendment thereof. The CMRS provider shall modify its current informational filing, as required in Subsection 3D to reflect the new name and shall attest that no revisions are being made, except for the name change.
  - (B) ETCs shall not self-certify to the Universal Service Administrative Company for receipt of federal universal service funds.
  - (C) ETCs, including incumbent local exchange telecommunications carriers, shall not willfully make any false entry in any business record of any kind kept by it, nor shall it willfully destroy, mutilate, alter or by any method falsify any such record, nor shall it willfully neglect or fail to make full, true and correct entries in such records of all facts and transactions appertaining to its business, nor shall it falsify any statement to the commission.
  - (D) Allegations of failure to comply with this rule shall be filed with the commission in the form of a formal complaint pursuant to 4 CSR 240-2.070. Resolution of the complaint may result in revocation of the ETC designation.
  - (E) The Commission shall not certify, by October 1 of each year, any ETC, including incumbent local exchange telecommunications carriers, that fails to comply with these rules.
  - (F) ETCs shall submit to the commission staff, by August 15, 2006, a statement of compliance with 4 CSR 240-3.570. All carriers with requests for ETC designation pending as of the effective date of this rule shall submit, within 30 days of the effective date of the rule, any missing information required by 4 CSR 240-3.570 or a statement that all required information was previously submitted as part of the request for ETC designation.





2. On page 13 of MO 5 witness Simon's Supplemental Direct Testimony, beginning on line 6, Mr. Simon discusses potential compliance with MO ETC Rule Subsection (2)(C). MO ETC Rule Subsection (2)(C) states:

(C) Each request for ETC designation shall include a plan outlining the method for handling unusual construction or installation charges. (emphasis added)

It appears there was a misunderstanding of this rule provision since the testimony discussion only addressed the method for handling unusual construction or installation but did not discuss the method for handling unusual charges. Please provide the plan outlining the method for handling unusual construction charges and installation charges.

**RESPONSE:**

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3. In Highly Confidential Appendix M attached to MO5 witness Simon's Supplemental Direct Testimony, there is a column titled "Build Year". As used in this appendix, please define the term "Build Year".

**RESPONSE:**

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