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**

CONCURRING OPINION OF COMMISSIONER CONNIE MURRAY

I write separately to indicate my concern with the establishment of a base line spending level for U.S. Cellular.

In deciding to promulgate its rule in its existing form, the Commission decided that it would not require a detailed demonstration of how high-cost support would be used to provide services that would not be provided in the absence of that support as part of the application for ETC status. There is no reason to treat U.S. Cellular's application any differently. The requirement that U.S. Cellular file annual reports providing detail of how it has spent those funds will provide the Commission with sufficient assurance that the USF funding is being well spent. If the Commission is not satisfied with the answers U.S. Cellular provides, it can turn off the flow of money by refusing to recertify the company.

The establishment of a reliable base line is not practical because a wireless carrier's capital budget can vary greatly from year to year, as U.S. Cellular's has done. Imposing a rigid base line requirement could limit the Commission's ability to fairly evaluate the company's actual spending decisions and could lead to incorrect conclusions about the company's spending.

For example, the Commission has set an investment base line level at $15 million per year and if the company received $10 million per year in USF funding, the Commission would expect the company to spend $25 million per year on capital expenditures. However, in a particular year, for various reasons, perhaps interest rates spike, or a recession decreases demand for services, a company might decide that it can only justify $10 million in capital spending. Adding the $10 million it receives from USF funding, the company then spends $20 million for the year and falsely appears to be misspending the USF funding. Further, to avoid not being recertified and being subject to penalties, the company would have to spend an additional $5 million the following year in addition to the $15 million base line and $10 million USF funding. On the other hand, in a particular year, the company might decide to spend $20 million of its own funds for capital improvements. In that circumstance the company could be tempted to spend only $5 million of the $10 million it receives from USF funding, pocket the other $5 million, and appear to be handling the USF funds appropriately. Under these real life circumstances, the imposition of an investment base line might obscure rather than illuminate U.S. Cellular's actual spending practices. As a result, the Commission would be better able to evaluate U.S. Cellular's compliance without establishing an investment base line.

As I pointed out, the Commission's rules regarding designation of a competitive ETC do not require the establishment of an investment base line to assure that a company's spending of USF funding is incremental to what it would otherwise spend. Instead, 4 CSR 240.3.570(2)(A)3.G. simply requires the applicant to offer "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." The Commission's rule requires the company to make a detailed demonstration of its compliance with that requirement only as part of its annual report of how it spent USF funding.

Although I have great concern with the establishment of a baseline spending level for a single company, I acquiesce on this issue in order to obtain a majority for this Report and Order.

Respectfully submitted,

Connie Murray, Commissioner

Dated at Jefferson City, Missouri
on this 3rd day of May 2007.