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	)	**Case No. TO-2006-0172**
Support Pursuant to § 254 of the Telecommunications	)	
Act of 1996,	)	

REPORT AND ORDER

Issue Date: September 21, 2006

Effective Date: October 1, 2006

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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**

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REGULATORY LAW JUDGE: **Nancy Dippell, Deputy Chief Regulatory Law Judge.**

REPORT AND ORDER

Syllabus: This order grants Missouri RSA No. 5 Partnership's (MO5) application for status as an eligible telecommunications carrier (ETC) for federal universal service fund (USF) purposes.

Procedural History

On October 18, 2005, MO5 filed an application for designation as an eligible telecommunications carrier for federal universal service fund purposes under Section 254 of the Telecommunications Act of 1996. MO5 sought ETC designation throughout its

FCC-licensed service area[1] in Missouri with respect to all local exchange carrier wire centers wholly within its FCC-licensed service area, all the wire centers partially within its FCC-licensed service area with the exception of the Laredo, Chula, Wheeling, and Gilliam wire centers,[2] and in the Hale and Dewitt wire centers which lie outside of but contiguous with its service area.

MO5 seeks ETC designation in the entire study area of the rural telephone company, Chariton Valley Telephone Company. In addition, MO5 seeks ETC designation in portions of the rural study areas of the rural telephone companies: Alltel Missouri, Inc., Grand River Mutual Telephone Corporation, Mark Twain Rural Telephone Company (Mark Twain), Northeast Missouri Rural Telephone Company (Northeast), and Spectra Communications Group, LLC, d/b/a CenturyTel. MO5 also seeks ETC designation in the non-rural telephone company area served by Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri, with respect to the Brookfield, Marceline, Moberly, Armstrong, Higbee, and Glasgow wire centers.

Grand River initially intervened, but later withdrew from the case. CenturyTel of Missouri, LLC, and Spectra Communications Group, LLC, d/b/a CenturyTel (collectively referred to as "CenturyTel"), Mark Twain, Northeast, and AT&T Missouri intervened in opposition to MO5's request for ETC designation. The Office of the Public Counsel and the Staff of the Missouri Public Service Commission also oppose the application.

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[1] Also known as a Cellular Geographic Service Area (CGSA).

[2] *Application for Designation as an Eligible Telecommunications Carrier Pursuant to Section 254 of the Telecommunications Act of 1996*, Appendix C.

The parties filed prehearing briefs on June 14, 2006. An evidentiary hearing was held on June 22, 2006. On August 14, 2006, the parties, with the exception of the Office of the Public Counsel, filed post-hearing briefs.

Overview

Under Section 214(e)(1) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, a telecommunications carrier may be designated as an eligible telecommunications carrier and thereby receive universal service support so long as the carrier, throughout its service areas: (a) offers the services that are supported by Federal universal service support mechanisms under Section 254(c) of the Act, either using its own facilities or a combination of its own facilities and resale of another carrier's services (including services offered by another ETC); and (b) advertises the availability of and charges for such services using media of general distribution.

Section 54.201(b) of the Code of Federal Regulations states that the Commission shall, on its own motion or upon request, designate a common carrier an ETC so long as the carrier meets the requirements of Section 54.201(d), which restates the requirements found in Section 214(e)(1) of the Act. Section 214(e)(2) of the Act and Section 54.201(c) of the Federal Communication Commission's rules state that the Commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an ETC for a service area the Commission designates, provided each additional requesting carrier satisfies Section 214(e)(1) of the Act and Section 54.201(d) of the FCC's rules. Before designating an additional ETC for an area served by a rural telephone company, the Commission shall find that such designation is in the public interest.

The FCC set out additional requirements for the ETC designation process in its *Designation Order*.[3] The requirements are that the applicant must:

(1) Provide a five-year plan demonstrating how high-cost universal service support will be used to improve its coverage, service quality or capacity in every wire center for which it seeks designation and expects universal service support;

(2) Demonstrate its ability to remain functional in emergency situations;

(3) Demonstrate that it will satisfy consumer protection and service quality standards;

(4) Offer local usage plans comparable to those offered by the incumbent local exchange carrier in the areas for which it seeks designation; and

(5) Acknowledge that it may be required to provide equal access if all other ETCs in the designated area relinquish their designations pursuant to section 214(e)(4) of the Act.[4]

The FCC also set out the analytical framework that the FCC will use to determine whether the public interest would be served by granting the applicant an ETC designation. The state utility commissions were encouraged by the FCC to apply the same type of fact-specific analysis when determining whether the public interest would be served. The state commissions were encouraged to consider the benefits of increased consumer choice, and the unique advantages and disadvantages of the competitor's service offering.[5]

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[3] *In the Matter of Federal-State Joint Board on Universal Service*, Report and Order, CC Docket No. 96-45, (March 17, 2005).

[4] *Designation Order,* para. 2.

[5] *Designation Order*, para. 41.

In addition, the Commission has set out its own rule regarding applications for ETC designation at 4 CSR 240-3.570. That rule became effective on June 30, 2006. The Commission's rule adopts the minimum requirements and the analytical framework suggested by the FCC in its *Designation Order* with a few additional requirements. The Commission's rule also only requires a two-year build-out plan.[6] Thus, by analyzing MO5's compliance with the Commission's ETC rule, the Commission is assured that the applicant has met all the necessary qualifications for ETC designation.

Findings of Fact

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact. The Commission in making this decision has considered the positions and arguments of all of the parties. Failure to specifically address a piece of evidence, position or argument of any party does not indicate that the Commission has failed to consider relevant evidence, but indicates rather that the omitted material was not dispositive of this decision.

Missouri RSA No. 5 Partnership

MO5 is licensed by the FCC to provide commercial mobile radio service in the rural counties of Linn, Macon, Shelby, Randolph, Chariton, and Knox within the state of Missouri, under FCC Call Sign KNKN487.[7] MO5 is a Missouri partnership owned by Chariton Valley Cellular RSA No. 2 Corporation (75%) and Grand River Communications, Inc. (25%). MO5 is not certificated to provide telecommunications services in Missouri by this Commission.

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[6] 4 CSR 240-3.570(2)(A)2.

[7] Exhibit 1, *Direct Testimony of Kathryn G. Zentgraf*, p. 4.

MO5 has requested ETC designation for the following wire centers: Laclede, Sumner, Mendon, Rothville, Atlanta, Bucklin, Bevier, Bosworth, Bynumville, Callao, Clifton Hill, De Witt, Ethel, Excello, Forest Green, Hale, Huntsville, Jacksonville, New Boston, New Cambria, Prairie Hill, Salisbury, Browning, Linneus, Meadville, Purdin, Bethel, Leonard, Winigan, Brunswick, Macon, Clarence, Dalton, Elmer, Hunnewell, Keytesville, La Plata, Shelbina, Shelbyville, Armstrong, Higbee, Clark, Moberly, Marceline, and Brookfield.

The Intervenors

All of the intervenor companies are incumbent local exchange companies (ILEC) that provide basic local and other telecommunications services in their respective service areas, as certificated by the Commission and pursuant to Commission approved tariffs. Each is a carrier of last resort and is an ETC providing service to the public throughout its respective service area. In addition, five other wireless carriers currently provide service in the area for which MO5 seeks ETC designation.[8] No evidence was presented to show that any residents in the service areas of the incumbents are being denied access to the public switched network or service in the ILEC's service areas.

Service Offerings of MO5

MO5 produced the testimony of three witnesses regarding its service offerings. MO5 alleges that it provides all the required service offerings and no party contested that MO5 provides: voice-grade access to the public switched network; local usage; dual tone multi-frequency signaling or its functional equivalent; single-party service or its functional equivalent; access to emergency services; and access to directory assistance. With regard

[8] Transcript p. 70.

to these services, the Commission finds that MO5 offers the core services and functions required by an ETC.

MO5 does not currently provide access to operator services but will provide such service if granted ETC status.[9] MO5 does not currently provide toll limitation for qualifying low-income consumers because it does not currently have any such offerings. However, if granted ETC status, MO5 will offer toll-blocking to Lifeline and Link-Up customers.[10] MO5 provides indirect access to one or more interexchange carriers through interconnection arrangements with interexchange carriers.[11] With regard to these services, the Commission finds that MO5 offers or will offer the core services and functions required by an ETC.

In addition, MO5 will advertise the availability of and charges for these core services, using media of general distribution. MO5 will also advertise the availability of Lifeline and Link-Up services to qualifying customers and take steps to comply with the advertising requirement in 47 U.S.C. § 254(c).[12]

Compliance with 4 CSR 240-3.570 – Uncontested Items

MO5 provided testimony showing that it complied with certain provisions of the Commission's ETC rule. No party contested the fact that MO5 provided construction plans with start and end dates,[13] the populations affected by construction plans, its existing tower

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[9] Exhibit 2, *Direct Testimony of James A. Simon*, p. 4.

[10] Ex. 2, p. 5.

[11] Ex. 2, p. 4.

[12] Ex. 2, p. 5-6.

[13] CenturyTel argued that the plans were not sufficiently detailed. That argument is addressed in the discussion of 4 CSR 240-3.5702(A)1.

locations, and an estimated budget.[14] There was no contest to MO5's allegations that it will: advertise the availability of its services and the charges for those services;[15] provide Lifeline and Link-Up discounts and that it will advertise those discounts appropriately;[16] provide equal access if necessary;[17] and follow the Cellular Telecommunications and Internet Association's (CTIA) customer code.[18] There was also no contest to the fact that MO5 has provided a plan outlining the method for handling unusual construction or installation charges.[19] Therefore, the Commission finds that MO5 provides, or will provide if granted ETC status, these uncontested items as set out in 4 CSR 240-3.570.

4 CSR 240-3.570(2)(A)1 – Intended Use of High-Cost Support

MO5 provided both written and oral testimony regarding the upgrades it intends to make to its system over the next five years. Included in its written testimony were Appendices D,[20] E,[21] F,[22] G,[23] H[24] I,[25] M,[26] and N,[27]which were intended to comply with the requirements of 4 CSR 240-3.570(2)(A)1 for showing the intended use of high-cost support,

[14] 4 CSR 240-3.570(2)(A)1.

[15] 4 CSR 240-3.570(2)(A)6.

[16] 4 CSR 240-3.570(2)(A)7.

[17] 4 CSR 240-3.570(2)(A)9.

[18] 4 CSR 240-3.570(2)(B).

[19] 4 CSR 240-3.570(2)(C).

[20] Ex. 5, Appendix D.

[21] Ex. 5, Appendix E.

[22] Ex. 2, Appendix F, and Ex. 5, Appendix F.

[23] Ex. 5, Appendix G.

[24] Ex. 5, Appendix H.

[25] Ex. 5, Appendix I.

[26] All references to "Appendix M" are to Exhibit 4, *Surrebuttal Testimony of James A. Simon*, Appendix M (Revised).

[27] Exhibit 6, *Supplemental Direct Testimony of Jonathan D. Reeves*, Appendix N.

including detailed descriptions of construction plans with start and end dates, populations affected by construction plans, existing tower site locations, and estimated budgets. Appendix M includes budget information and year-by-year proposals for spending the USF support if ETC designation is granted. Appendices E, F, G, H, I, and N show the current coverage and the proposed coverage after the implementation of a five-year plan. Appendices D and F show the population densities and changes.

MO5 first filed its application while the Commission was in the process of promulgating its ETC rule. It later supplemented its testimony in order to try to comply with the provisions of the new rule. Because the Commission's rule differs slightly from the FCC's requirements, MO5 submitted a five-year build-out plan, the FCC requirement, instead of the two-year plan required by the Commission's rules. Some of the ILECs argue that MO5 has failed to provide sufficient details of its build-out plan for the Commission to make a decision. While the Commission prefers to receive as much detail as possible in an ETC application, MO5 provides sufficient details for the Commission to determine the intended use of the USF support, the start and end dates of proposed construction, existing tower site locations, and the estimated budgets. The Commission finds that MO5 has provided these necessary requirements in sufficient detail.

4 CSR 240-3.570(2)(A)2 – Only USF Supportable Services

As stated above, MO5 filed a five-year plan instead of a two-year plan. The plan is supposed to show how the USF support will be spent and that it will only be used for USF supportable services. MO5 estimates receiving $1,534,230 in universal service fund support annually if its application is granted.[28] Appendix M is intended to show how these funds will be spent.

Included in each year of the budget is an expense for estimated depreciation and an expense for estimated taxes.[29] Staff makes a brief argument that it is not appropriate to use USF support to pay the taxes owed on that support or to pay depreciation expense. Mr. Simon testified that the estimated taxes may be overstated,[30] however, he believes that taxes are a supportable item.[31] He also stated several times that MO5 would "build out the seventeen specified tower sites as quickly as possible given the level of funding available."[32] Mr. Simon testified that there are sufficient contractors available for construction of towers as quickly as MO5 can arrange the construction. Mr. Simon stated that he would have no difficulty spending any amount of USF support received, even if it was greater than originally estimated.

The Commission finds that MO5's five-year plan was somewhat confusing. However, the Commission recognizes that this is a new process and that it may take several applications to get some clarity in the filings. The Commission finds Mr. Simon's commitment to spend USF monies on only supportable items to be credible. The Commission, however, concludes below that income tax and depreciation expenses are not USF supportable items. Therefore, the Commission shall direct MO5 not to spend its USF funds on those items.

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[28] Exhibit 1, *Direct Testimony of Kathryn G. Zentgraf*, p. 16.

[29] Ex. 4, Appendix M (Revised).

[30] Tr. p. 194.

[31] Tr. p. 127.

[32] *Post Hearing Brief of Missouri RSA No. 5 Partnership*, p.8 (filed August 14, 2006)(c*iting* Tr. p. 194-195).

The Commission further finds that because MO5 has committed to spending the USF support only on supportable items, and that MO5 intends to speed up the implementation of new cell towers and upgrades to meet any necessary expenditures for USF support, that MO5's five-year budget less the tax and depreciation expenses meets the requirements of the Commission's rule. The Commission will require MO5 to report those items to the Commission on an annual basis under the new ETC rule in order to receive certification for future years as an ETC.

At its annual certification, MO5 shall produce a budget which is clear and does not contain items which are not supportable, or which would have been made regardless of the USF support.

There was also some question as to whether MO5 provides access to interexchange services. MO5 provides indirect access to one or more interexchange carriers for access to any other exchanges.[33]

4 CSR 240-3.570(2)(A)3 – Expenses Would Not Otherwise Occur

MO5 provided maps of the geographic coverage areas before and after its proposed improvements.[34] The maps were broken down on a wire center basis. There were no wire centers that were determined to not need improvement.[35]

AT&T Missouri argued that MO5 did not demonstrate any meaningful improvement in signal coverage in the six AT&T Missouri wire centers, or otherwise demonstrate how funding will be used to further the provision of supported services in that

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[33] Ex. 2 p. 4.

[34] Ex. 6, Appendix N, and Ex. 5, Appendix I.

[35] Ex. 3, p. 4.

area.[36] Thus, AT&T Missouri argues that this exchange should be excluded from ETC designation.

MO5 provided the testimony of Jonathan D. Reeves to sponsor the map showing its current signal coverage.[37] MO5 also provided maps showing its signal coverage before and after the implementation of its proposed upgrades,[38] as well as the geographic locations of existing[39] and future[40] tower sites. Appendices F[41] and M also show the projected start and end dates of proposed upgrades and improvements, the estimated populations that will be served by those improvements, and the estimated amount of investment for each project funded by high-cost USF support.

The coverage maps show current and predicted signal coverage at a basic level in green, and a lack of signal in white.[42] The coverage maps could have been provided in more detail with regard to the signal strength as demonstrated by the Rebuttal Testimony of Glenn H. Brown.[43] The Commission, however, finds the evidence provided by MO5 to be sufficient to demonstrate how each of the wire centers will benefit from added coverage.

MO5 currently provides service using time division multiple access (TDMA) and has added global system of mobile communications (GSM) to its existing system. MO5

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[36] *AT&T Missouri's Post-Trial Brief*, p.91 (filed August 14, 2006).

[37] Ex. 6, *Supplemental Direct Testimony of Jonathan D. Reeves*, Appendix N.

[38] Ex. 5, *Direct Testimony of Jonathan D. Reeves*, Appendices H and I.

[39] Ex. 6, Appendix N.

[40] Ex. 5, Appendix G.

[41] Ex. 5, Appendix F.

[42] Tr. pp. 207, 213.

[43] Exhibit 11, *Rebuttal Testimony of Glenn H. Brown*, Schedule GHB-4HC.

intends to use high-cost USF support to provide additional and enhanced GSM coverage in the rural-most portions of its service area.[44]

The before and after improvements coverage maps show that each of the wire centers for which MO5 seeks ETC designation will benefit from the proposed upgrades. [45] Even in the areas where coverage is relatively good, there is some coverage improvement , such as gaps filled or additional signal overlay, by the upgrades and additional sites as proposed by MO5.[46] Thus, the Commission finds that MO5 has shown that it will provide improved coverage, service quality, or capacity in each of the wire centers where ETC designation is requested, including the six AT&T Missouri wire centers.

Another significant issue is whether MO5 will be spending USF support on improvements that it would not have otherwise incurred without receiving USF support. As MO5 admits, Appendix M includes estimated income taxes based on the receipt of USF funds. MO5 Also admits that the tax amounts on Appendix M are most likely an overestimation.[47] MO5 also admits that some of the capacity upgrades may be made regardless of USF funding if customer demand is present and capital funding is available.[48] As discussed above, however, Mr. Simon testified that MO5 will condense its five-year plan as necessary to be certain that it spends all of the USF monies it receives on supportable items.[49] Specifically, MO5 will build out the seventeen specified tower sites as quickly as

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[44] Ex. 1, p. 21; Ex. 5, Appendix E.

[45] Ex. 6, Appendix N, and Ex. 5, Appendix I.

[46] Tr. pp. 218-225.

[47] Tr. p. 194.

[48] Tr. pp. 130, 190.

[49] Tr. pp. 194-195..

possible to utilize all USF support received.[50] The Commission finds Mr. Simon's testimony to be credible.

If the five-year budget is collapsed, MO5 has shown sufficient upgrades even after subtracting estimated taxes and depreciation, to use the entire USF amount in the first two years of its plan. The Commission determines that it is reasonable to require as a condition of its ETC status that MO5 spend all of its USF support on upgrades and improvements and not on taxes or depreciation. Based on Mr. Simon's clarification and the condition that the Commission will place on the grant of ETC status, the Commission determines that MO5 has provided sufficient evidence showing how it intends to spend its expected USF support on the provision, maintenance, and upgrading of facilities and services other than those it would have made without USF support.

Mr. Simon also testified that MO5 will stop building new towers without USF support.[51] The Commission further finds that the improvements would not be made without USF support.

4 CSR 240-3.570(2)(A)4 – Ability to Remain Functional in an Emergency

Mr. Simon testified about MO5's ability to remain functional in the event of an emergency. MO5 has a fully redundant network, with extensive battery backup and nine emergency generators. MO5's system is also configured to automatically reroute traffic around damaged facilities. In addition, MO5's switch is designed for additional overhead traffic to accommodate traffic spikes. [52]

[50] *Post Hearing Brief of RSA No. 5 Partnership*, p. 8, citing, Tr. pp. 194-195.
[51] Tr. p. 130.
[52] Ex. 3, p. 6.

Only AT&T Missouri suggests that MO5's testimony on this point is insufficient.[53] Mr. Stidham suggests that MO5 has not provided sufficient detail about how the system is designed for the Commission to make a determination about emergency capabilities. Neither the Commission's Staff nor any other party objected to the sufficiency of this testimony. The Commission finds that the information provided is sufficiently detailed for it to make a decision regarding this element. The Commission further finds that MO5 has demonstrated its ability to remain functional in an emergency.

4 CSR 240-3.570(2)(A)5 – Public Interest

Granting MO5 an ETC designation will benefit the public by enabling MO5 to bring wireless service, including enhanced 911 (E911) and GSM technology, to many remote locales. The USF support will allow MO5 to compete to provide primary telephone service in remote areas thus increasing competition for basic local service in rural areas which is a benefit to the public interest.[54] In addition, Lifeline and Link-Up customers will have access to service that would otherwise be unavailable to them.

An ETC grant to MO5 will bring the benefits of advanced technology to the remote parts of MO5's service area. This includes better GSM coverage in areas which already have some coverage available. By providing these areas with GSM or better GSM coverage, MO5 is promoting the public interest of offering customers in rural areas similar services and technologies that are available in urban areas.

Using USF support, MO5 will also provide additional enhanced 911 coverage in the most rural areas. With wireless E911, wireless subscribers gain the added mobility of

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[53] *AT&T Missouri's Post-Trial Brief*, pp. 5-6; Exhibit 15, *Supplemental Rebuttal Testimony of James E. Stidham, Jr.*, pp. 6-7.

[54] Ex. 2, pp. 13-14.

911 service. Thus, a farmer on a tractor in the field may be able to call 911 in the case of an emergency where wireless 911 service is available. The ILECs argue that MO5 did not provide evidence that the other wireless carriers serving in MO5's service area do not already provide E911 service and, therefore, the Commission cannot determine that E911 service will be enhanced. The Commission finds, however, that even if other E911 service is available, there is some added benefit from having a redundant system with regard to the ability to actually make an E911 call.

The ETC designation will also bring the benefits of wireless service to the current Lifeline subscribers of the various ILECs.[55] Without USF support, MO5 will be unable to offer Lifeline discounts.[56] MO5's Lifeline plans would give qualifying consumers a $1.75 monthly discount as well as a discount of $6.50 per month from any of MO5's current plans. In addition, MO5 will offer two Lifeline-only plans.[57]

To benefit from a $1.75 discount, however, a low-income customer seeking only the Lifeline plan would need to pay for a handset and pay an activation fee of up to $50 (a 50% discount is offered to Link-Up customers). Link Up eligible subscribers could pay these activation charges over a period not to exceed one year without interest.[58] Even though the wireless service is ultimately more expensive than the ILEC's plan, the service received has additional features and benefits. An additional benefit to some Lifeline subscribers is an increased local calling scope. And finally, another benefit of granting the ETC designation is the mobility that wireless service provides.

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[55] Ex. 2, p. 6-8.

[56] Ex. 2 p. 8.

[57] Ex. 2, p.6.

[58] Ex. 2, p. 8.

The ILECs argue that the harm to the USF outweighs any benefits provided by the grant of ETC status. The grant of ETC status to MO5 would result in USF support in the amount of approximately $1,534,230 annually. That represents approximately .037% of the total high-cost support received by all carriers from the USF.[59]

The Commission finds that benefits to the public outweigh the potential detriments to the USF of granting ETC status.

4 CSR 240-3.570(2)(A)8 – Service Quality Standards

MO5 will comply with all the applicable consumer privacy protection standards as provided in 47 C.F.R. 64 Subpart U.[60] MO5 agreed to continue to abide by these standards.[61] MO5 has also committed to complying with the CTIA Consumer Code. The CTIA's current Consumer Code for Wireless Service. Under the CTIA Consumer Code, wireless carriers agree to: (1) disclose rates and terms of service to customers; (2) make available maps showing where service is generally available; (3) provide contract terms to customers and confirm changes in service; (4) allow a trial period for new service; (5) provide specific disclosures in advertising; (6) separately identify carrier charges from taxes on billing statements; (7) provide customers the right to terminate service for changes to contract terms; (8) provide ready access to customer service; (9) promptly respond to consumer inquiries and complaints received from government agencies; and (10) abide by policies for protection of consumer privacy.[62]

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[59] Ex. 1, p. 16.

[60] Ex. 3, p. 8.

[61] Tr. p. 125.

[62] Ex. 2, Appendix L.

MO5, as a wireless carrier, is not subject to the same quality of service standards as traditional ILECs. However, subscribers to MO5's service are able to "test drive" the MO5 network without penalty to determine if service quality is acceptable.[63]

4 CSR 240-3.570(2)(A)10 – Local Usage Plan Comparable to ILEC's Plan

MO5 does not serve the entire wire centers of Winigan and Bethel in the northern part of its service territory. Instead, MO5's license area only encompasses 16.8% of the potential customers in the Winigan exchange and less than 22% of the land area.[64] With regard to the Bethel exchange, MO5's licensed service area includes roughly 80%.[65] MO5's licensed service area includes the entire Leonard wire center. The Winigan wire center is the only wire center within MO5's requested ETC area in Northeast's ILEC territory. The Bethel and Leonard wire centers are the only wire centers within MO5's ETC area in Mark Twain's ILEC territory.

Northeast and Mark Twain each provide local calling to their customers throughout all of that company's wire centers. MO5 does not have any interconnection or roaming agreements to provide for the termination of traffic outside of its licensed service area.[66] Furthermore, MO5 is not licensed to provide resale of another wireless carrier's service and therefore, must keep its signal within its service territory to the best of its ability.[67] With regard to the Winigan wire center, MO5 admits that it would have difficulty serving customers outside its licensed service area and would have to report those to the

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[63] Ex. 3, pp. 8-10.

[64] Exhibit 13, *Rebuttal Testimony of Robert C. Schoonmaker*, p. 63.

[65] Ex. 5, Appendix A.

[66] Tr. pp. 147-148.

[67] Tr. p. 145.

Commission in its annual certification report.[68] MO5 did not demonstrate that it had the ability to provide a local calling plan equivalent to the local calling scope of the ILEC in the Bethel, Leonard, and Winigan wire centers.

MO5 currently offers several different calling plans. MO5 will continue to offer a wide selection of plans.[69] If designated as an ETC, MO5 intends to offer two local usage plans available only to Lifeline customers and one "ILEC-equivalent" plan available to any customer. These plans are designed to be comparable to that of the ILEC.[70] In addition, a Lifeline customer may apply the Lifeline discounts to any of MO5's calling plans.

The first of those plans will offer unlimited local calling and mobility in the area served by the subscriber's home cell site at a fixed monthly price of $15.00 ($6.75 per month after applying the local exchange service discount of $1.75 and the federal line charge discount of $6.50[71]). The subscriber's outbound local calling area will correspond to the traditional ILEC calling area for that subscriber's address. Calls could be originated by the MO5 Lifeline subscriber to any numbers within the ILEC exchange from any location within the subscriber's home cell site serving area. Calls could also be received within this area. The home cell site area will be defined to include coverage from all MO5 cell sites necessary to encompass the subscriber's entire corresponding ILEC exchange area. The plan would also include several vertical features, including call waiting, call forwarding, 3-way calling, caller ID, and voice mail, for no additional charge.[72]

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[68] Tr. p. 80.

[69] Ex. 2, p.6; Appendix J.

[70] Ex. 2, pp. 6-9.

[71] The federal subscriber line charge is only $5.25 for the non-rural AT&T Missouri exchanges.

[72] Ex. 2, pp. 6-7.

The second Lifeline-only plan will allow for unlimited inbound and outbound local calling and mobility through out the entire service area for which MO5 is designated as an ETC, for a flat $20.00 ($11.75 per month after applying the local exchange service discount of $1.75 and the federal line charge discount of $6.50[73]). Subscribers of this plan will receive toll-free calling within the geographic area encompassing multiple telephone exchanges served by all local exchange carrier wire centers for which ETC designation is being sought. The plan will also include the same vertical features as listed above at no additional charge.[74]

These Lifeline-only plans do not include roaming on other carriers' networks for routine calls. The plans will, however, allow for ubiquitous access to 911 for the MO5 Lifeline subscriber even in a roaming situation. MO5 is unable to provide either of these two plans without USF support.[75]

MO5 will also offer discounts of 50% off of its $50 activation fee to Link-Up subscribers along with a deferred schedule for payment of the charges accessed for commencing service. The consumer will not pay interest for a period of up to one year.[76] In addition, in order to initiate service a new Lifeline-only customer would have to pay the discounted activation fee and would need to purchase a wireless handset.

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[73] The federal subscriber line charge is only $5.25 for the non-rural AT&T Missouri exchanges.

[74] Ex. 2, pp. 7-8.

[75] Ex. 2, p. 8.

[76] Ex. 2, p. 8.

The "ILEC-equivalent" plan will offer the same features and services as the first Lifeline plan discussed above, but will be available to all MO5 subscribers at a price of $15.00 per month.[77]

MO5 is committed to continuing to offer its local usage plans and will attest to those plans being offered when it seeks its annual ETC certification with the Commission as required in 4 CSR 240-3.570(4).[78]

MO5 provided Appendix K[79] to show how its local calling plan rate will compare with the rates of the ILECs. The total monthly charges for the ILECs, including the various surcharges and E911 taxes, range from $13.70 for AT&T Missouri's Rate Group A to $21.58 for Green Hills. Appendix K, however, does not show the ILEC charges after the applicable Lifeline discounts are applied. For instance, AT&T Missouri's Rate Group A rates, are only $.15 before the applicable 911 and Relay Missouri charges, not $13.60 as shown on Appendix K. Thus, MO5's Lifeline customers in the AT&T Rate Group A exchanges would pay $8.00 as compared to $.15 for AT&T customers.

While the MO5 rates are greater than those charged by the ILECs, the levels of services are not identical. Each of the current MO5 plans includes multiple vertical services. Adding the tariff rates for those features to the rates charged by the ILECs would result in substantially greater monthly rates. In addition, one of MO5's Lifeline plans will offer a larger calling scope than the ILEC, with the exception of the Bethel, Leonard, and Winigan exchanges. Furthermore, MO5's customers will have limited mobility, though there

[77] Ex. 2, p. 8.
[78] Tr. pp. 125-126.
[79] Ex. 2, Appendix K.

may be dead spots and the possibility of dropped calls which is not expected with traditional landline service. Both ILEC basic local subscribers and MO5 Lifeline and Link-Up subscribers will have unlimited local calling.[80]

Public Counsel argues that Lifeline customers should not be subject to credit checks unless they have a past unpaid account with the company.[81] There was no indication in the record that MO5 will conduct a credit check as part of an application for Lifeline service. However, the Commission finds that such a requirement is not reasonable and as a condition of granting ETC status, MO5 shall not conduct a credit check on its Lifeline customers that do not have an unpaid account with the company.

Conclusions of Law

The Missouri Public Service Commission has arrived at the following conclusions of law.

AT&T Missouri, Alltel Missouri, Inc., Grand River Mutual Telephone Corporation, Mark Twain, Northeast, Spectra Communications Group, LLC, d/b/a CenturyTel, and CenturyTel of Missouri, LLC, are each a "telecommunications company" and a "public utility" as those terms are defined in Section 386.020, RSMo 2000, and are therefore fully subject to the regulatory jurisdiction of the Commission. Each of the companies is an incumbent local exchange carrier and has been designated as an ETC for purposes of receiving federal USF support.

Each of these companies, with the exception of AT&T Missouri and CenturyTel of Missouri, LLC, is a rural telephone company as defined by the Federal Telecommunications

[80] Ex. 2, pp. 6-8.

[81] Exhibit 7, *Rebuttal Testimony of Barbara Meisenheimer*, p. 14.

Act of 1996. AT&T Missouri and CenturyTel of Missouri, LLC, are non-rural telephone companies.

The commercial mobile radio service provided by MO5 is specifically excluded from the statutory definition of "telecommunications service."[82] Thus, MO5 is not subject to the general regulatory jurisdiction of the Commission. Under the authority granted to the Commission by the FCC, MO5 has requested that the Commission designate it as an ETC for purposes of receiving federal universal service support.

Under the Commission's ETC rule, by applying for designation as an ETC, MO5 voluntarily subjects itself to the Commission's jurisdiction regarding ETC "status and USF funding and the acceptance of any additional rules made applicable to" ETCs.[83] MO5 admits that the Commission's rule should be applied in this case[84] and, therefore, MO5 is subject to the Commission's jurisdiction as set out in the ETC rule.

The purpose of the Universal Service Fund is to provide financial support to carriers that use the support to advance universal service principles. Before a carrier can receive support from the USF, the carrier must be designated as an ETC by the state commission with jurisdiction over the service area where the carrier seeks to apply its USF support.[85]

The state commission must first confirm that the petitioning carrier offers the services that are supported by federal universal service support mechanisms under

[82] Section 386.020(53)(c), RSMo.

[83] 4 CSR 240-3.570(4)(G).

[84] See, *Issues List*.

[85] 47 U.S.C. § 214(e).

Section 254(c) of the Act.[86] Second, the state commission must confirm that the petitioning carrier advertises the availability of such services and charges using media of general distribution.[87] After making those determinations, the Commission must determine if the request is in the public interest.[88]

The FCC issued an order setting forth additional guidance to be used in conjunction with a public interest finding for competitive ETC designations in areas served by rural telephone companies.[89] In addition, the FCC has issued an order in the *Highland* case[90] that helps define the public interest standard.

On March 17, 2005, the FCC issued a decision[91] regarding how it will evaluate applications for ETC status, and recommending that the states use similar guidelines. Paragraph 41 of the *Report and Order* states:

> 41. In instances where the Commission has jurisdiction over an ETC applicant, the Commission in this Report and Order adopts the fact specific public interest analysis it has developed in prior orders. First, the Commission will consider a variety of factors in the overall ETC determination, including the benefits of increased consumer choice, and the unique advantages and disadvantages of the competitor's service offering. Second, in areas where an ETC applicant seeks designation below the study area level of a rural telephone company, the Commission also will conduct a cream skimming analysis that compares the population density of each wire center in which the ETC applicant seeks designation against that of the wire centers in the study area in which the ETC applicant does not seek designation.

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[86] 47 C.F.R. § 54.101.

[87] 47 U.S.C. § 214(e).

[88] 47 U.S.C. § 214(e)(2).

[89] *In the Matter of Federal-State Joint Board on Universal Service, Highland Cellular, Inc., Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia,* CC Docket No. 96-45, FCC 03-338 (rel. April 12, 2004).

[90] *In the Matter of Federal-State Joint Board on Universal Service, Highland Cellular, Inc., Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia,* CC Docket No. 96-45, FCC 03-338 (rel. April 12, 2004).

[91] 1 Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, FCC-05-46. Rel. March 17, 2005. ("*Report & Order*")

> Based on this analysis, the Commission will deny designation if it concludes that the potential for cream skimming is contrary to the public interest. The Commission plans to use this analysis to review future ETC applications and strongly encourages state commissions to consider the same factors in their public interest reviews. (*footnotes omitted*)

The footnote to the "prior orders" the FCC references in the above paragraph refers to both the *Virginia Cellular Order*[92] and the *Highland Cellular Order*.[93] The FCC wrote in paragraph 28 of the Virginia Cellular Order:

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

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

In addition, the carrier must meet the requirements of the Commission's rule governing ETC designations.[94] The Commission's rule largely incorporates the requirements set out by the FCC.

The Commission has found that MO5 offers the services that are supported by federal universal service support. The Commission has also found that MO5 advertises the

[92] FCC 03-338, CC Docket 96-45, Released January 22, 2004.
[93] FCC 04-37, CC Docket 96-45, Released April 12, 2004.
[94] 4 CSR 240-3.570.

availability of those services using media of general distribution. Thus, the Commission concludes that MO5 has met the requirements set out in Section 214(e)(1)(A) and (B).

4 CSR 240-3.570 – Uncontested Items

No party contested the fact that MO5 complied with portions of the ETC rule. Therefore, based on the uncontested facts, the Commission concludes that MO5 has complied with the following portions of the ETC rule: (1) providing the populations affected by construction plans, its existing tower locations, and an estimated budget;[95] (2) advertising the availability of its services and the charges for those services;[96] (3) providing Lifeline and Link-Up discounts and advertising those discounts appropriately;[97] (4) providing equal access if necessary;[98] (5) following the CTIA's customer code;[99] and (6) providing a plan outlining the method for handling unusual construction or installation charges.[100] Therefore, the Commission concludes that MO5 provides, or will provide if granted ETC status, these uncontested items as set out in 4 CSR 240-3.570.

4 CSR 240-3.570(2)(A)1 – Intended Use of High-Cost Support

The Commission found that MO5 provided a sufficiently detailed plan for the Commission to make its decision. The Commission concludes that MO5 has provided a statement of intended use of its high-cost support including a detailed description of construction plans with start and end dates and estimated budget amounts. The

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[95] 4 CSR 240-3.570(2)(A)1.
[96] 4 CSR 240-3.570(2)(A)6.
[97] 4 CSR 240-3.570(2)(A)7.
[98] 4 CSR 240-3.570(2)(A)9.
[99] 4 CSR 240-3.570(2)(B).
[100] 4 CSR 240-3.570(2)(C).

Commission further concludes that MO5 shall, as a condition of its grant of ETC status, file a plan outlining more specifically, the proposed USF supportable upgrades for the first two years of USF support as further set out below. This condition is reasonable in that it will allow the Commission to more easily review the certification filings that MO5 will need to make on an annual basis.

4 CSR 240-3.570(2)(A)2 – Only USF Supportable Services

The Commission previously found that MO5's five-year budget in conjunction with Mr. Simon's testimony was sufficient for the Commission to make a decision regarding what services MO5 will provide using USF support. The Commission found that MO5 includes taxes and depreciation expenses in its proposed budget.

Section 254(e) of the Act states that "[a] carrier that receives such [USF] support shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. No evidence was provided that income taxes or depreciation expenses are USF supportable items. Also, MO5 did not show that income tax and depreciation expenses are not the type of items that would not otherwise normally occur.[101] The Commission concludes that income tax and depreciation expense are not USF supportable items.

The Commission has determined, however, that MO5 will spend the USF support on the provision, maintenance, and services that are supportable, such as new towers and upgrades, and MO5 has shown sufficient supportable items in its planned upgrades to meet this element. The Commission concludes that it is reasonable to condition the grant of ETC status on MO5 not using USF high-cost support for taxes or depreciation expenses.

[101] 4 CSR 240-3.570(2)(A)3.G.

The Commission, therefore, concludes that MO5 has met the requirement to show that high-cost 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 for which it was granted. In addition, the Commission concludes that it is reasonable to require MO5, as a condition of the grant of ETC status, to provide a revised estimated budget showing only the USF supportable items for which it proposes to spend USF funds in the next two years.

Furthermore, the Commission concludes that under the ETC rule, failure to demonstrate "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 support was used in addition to any expenses the ETC would normally incur,"[102] shall result in the Commission refusing to certify MO5 for USF support .[103]

In addition, based on the facts above, the Commission concludes that MO5 is providing access to interexchange service.

4 CSR 240-3.570(2)(A)3 – Expenses Would Not Otherwise Occur

AT&T Missouri argued that MO5 did not demonstrate any meaningful improvement in signal coverage in its six wire centers, or otherwise demonstrate how funding will be used to further the provision of supported services in those areas. Thus, AT&T Missouri argues that these exchanges should be excluded from ETC designation. The Commission has found that the coverage maps provided by MO5 show sufficient detail for it to reach its decision in this matter. The maps were broken down on a wire center

[102] 4 CSR 240-3.570(4)(D).

[103] 4 CSR 240-3.570(5)(E).

basis and the appendices to the various testimony included projected dates for the improvements as discussed above.

The Commission concludes that the evidence provided by MO5 demonstrates how each of the wire centers will benefit. The Commission also concludes that MO5 will provide improved coverage, service quality or capacity in each of the wire centers where ETC designation is requested, including the six AT&T Missouri wire centers.

MO5's Appendix M included budgets for unsupportable items and expenses that it would make regardless of the ETC designation. However, the testimony clarified that MO5 will make the USF supportable improvements as laid out in the five-year plan as necessary so that it spends funds on cell towers and services that it would not have otherwise spent without the USF funds. The Commission concludes, based on the remaining items in the five-year plan and the testimony, that MO5 intends to spend all its USF support on supportable services in the next two years and that the improvements would not be made without USF support.

As a condition of its ETC designation, the Commission will require MO5 to provide a new two-year budget which includes only items intended for USF support as specified in 4 CSR 240-3.570(2)(A)2.A that would not otherwise be made without USF support, and the Commission requires that USF support not be spent on taxes or depreciation as specified above.

4 CSR 240-3.570(2)(A)4 – Ability to Remain Functional in an Emergency

Only AT&T suggests that MO5's has not provided sufficient detail about how the system is designed for the Commission to make a determination about emergency capabilities. Neither the Commission's Staff nor any other party objected to the sufficiency of this testimony. Based on the evidence provided, including rerouting calls, redundant networks, the system not operating at capacity, and back-up generators, the Commission concludes that MO5 has demonstrated its ability to remain functional in an emergency.

4 CSR 240-3.570(2)(A)8 – Service Quality Standards

The Commission has found that MO5 will comply with all the applicable consumer privacy protection standards as provided in 47 C.F.R. 64 Subpart U.[104] Unlike the ILECs, MO5, as a wireless carrier, is not subject to the Commission's quality of service standards. However, MO5 has committed to complying with the CTIA Consumer Code and offers its customers a "test drive" of its service before a final commitment. MO5 will also be subject to the provisions of the Commission's ETC rule. Considering these facts, the Commission concludes that MO5 will satisfy consumer privacy protection standards as provided in 47 C.F.R. 64 Subpart U and any service quality standards that are applicable.

4 CSR 240-3.570(2)(A)10 – Local Usage Plan Comparable to ILEC's Plan

MO5 will offer local calling plans that are designed to be comparable to that of the ILEC. Each of the Lifeline plans and the "ILEC-equivalent" plan has unlimited local calling to a local calling scope that is at least as large as the ILEC, with the exception of the Bethel, Leonard, and Winigan exchanges. Although the MO5 Lifeline rates are more than those charged by the ILECs, the level of services is also increased. Each of the current MO5 plans includes multiple vertical services and some will offer a larger calling scope than the ILEC. Furthermore, MO5's customers will have limited mobility. While the offerings are not identical, the Commission concludes that MO5 offers a local usage plan that is

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[104] Ex. 3, p. 8.

comparable to those offered by the ILECs with the exception of the Bethel, Leonard, and Winigan exchanges.

The Commission further concludes that requiring a credit check of Lifeline customers who do not have unpaid accounts with the company is not a reasonable requirement. In order to protect Lifeline customers, the Commission finds that it is reasonable to condition the grant of ETC designation upon MO5 offering service to Lifeline customers without requiring a credit check.

4 CSR 240-3.570(2)(A)5 – Public Interest

Section 214(e)(2)[105] of the Act, as well as the FCC regulations,[106] and the Commission's rule[107] govern the designation of ETC status. Section 214(e)(2) of the Act states, in relevant part:

> Upon request and consistent with the public interest, convenience and necessity, the State commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the State commission, so long as each additional requesting carrier meets the requirements of paragraph (1). Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the State commission shall find that the designation is in the public interest.

The Commission's ETC rule also requires that the applicant for ETC designation demonstrate that the designation is in the public interest.[108] Thus, the Commission must determine if the designation of an additional ETC is in the public interest.

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[105] 47 U.S.C. § 214(e)(2).

[106] 47 C.F.R. § 54.201, *et seq.*

[107] 4 CSR 240-3.570.

[108] 4 CSR 240-3.570(2)(A)(5).

The FCC has found that an increase in competition is in the public interest. This is based on the fact that one of the main goals of the Telecommunications Act of 1996 was to increase competition. Thus, under the FCC's analysis, having MO5 designated as an ETC will have some benefit of increasing competitive choice. In the current case MO5 presented evidence showing increased competition in the form of new service offerings. The Commission concludes, based on the record before it, that there will be some benefit of increased competition by designating MO5 an ETC.

The second factor that the FCC considered is the impact on the Universal Service Fund. The impact on the fund of MO5's annual USF support of $1,534,230 is not in and of itself a significant portion of the fund. The FCC acknowledged, however, that there were concerns about the overall impact of designating multiple carriers, including wireless, as ETCs.

The ILECs believe a stricter analysis should be done. The ILECs suggest that the Commission must look to the Universal Service Principles in Section 254(b) to determine the impact on the USF. The ILECs also believe that the USF will grow too rapidly with the addition of wireless companies. The Commission is also concerned with the rapid growth of the Universal Service Fund, and awaits further guidance from the FCC and the United States Congress on improvements to the USF. The Commission must, however, resolve the case before it. Based on the amount of the USF compared to this particular company's expected USF support, the Commission concludes that the impact of this specific ETC designation on the USF fund as a whole will be minimal.

The Commission has found that the advantages that MO5 will provide include mobility, access to emergency services, and an increased local calling scope for some customers. Disadvantages include such things as dead spots and dropped calls. Granting MO5 an ETC designation will benefit the public by enabling MO5 to bring wireless service, including E911 and GSM, to many remote locales and by increasing competition for primary telephone service in remote areas. In addition, Lifeline and Link-Up customers will have access to service that would otherwise be unavailable to them. The Commission concludes that the benefits to the public in rural Missouri of granting MO5 ETC status will outweigh the potential detriments to the USF fund.

Another disadvantage of wireless service is that the company is not subject to the mandatory quality of service standards with which the landline companies must comply. MO5 has committed to complying with the CTIA Consumer Code for Wireless Service and any applicable federal quality of service standards. Furthermore, the Commission has set out additional conditions in this order for the annual certification. In addition, enforcement of the Commission's ETC rule will ensure that the USF support is being used appropriately.

Finally, there was no evidence that suggested MO5 was currently unable to serve most of the areas where ETC designation is requested. However, MO5 did not demonstrate that it had the ability to provide a local calling plan equivalent to the local calling scope of the ILEC in the Bethel, Leonard, and Winigan wire centers. The ETC rule provides what the company must do to provide service if requested in an area where coverage does not exist. With regard to the Winigan exchange, MO5 admitted that it would most likely have to report to the Commission that it could not serve those customers outside of its service area if they requested service. The Commission concludes that because of the number of customers served relative to the number outside the service area, the fact that MO5 will not be able to serve those customers outside its service area, and that this is the only wire center of Northeast for which service is requested, it must exclude the Winigan wire center from MO5's designated ETC area.

With regard to the Leonard and Bethel wire centers, the entire Leonard wire center is in MO5's licensed service area. And, a majority of the Bethel wire center is in the service area. Furthermore, the proprietary information convinces the Commission that it is appropriate to include these wire centers in the ETC designated area. However, in order to provide a comparable local calling scope, as a condition of its ETC status, MO5 must provide a local calling scope for its Lifeline and "ILEC-equivalent" plans that is equal or greater than the calling scope of the ILEC.

Thus, the Commission concludes that MO5 has the ability to serve the entire ETC area with the exception of the Winigan exchange which is excluded.

Based on all the foregoing facts, the Commission concludes that the benefits to the public of granting MO5 ETC status outweigh the detriments of granting ETC status.

Conclusion

The Commission determines that the grant of ETC status to MO5 is in the public interest because MO5 has provided evidence to show that the public benefits from designating MO5 an ETC for USF purposes will outweigh the detriments of doing so. The Commission conditions this grant of ETC designation on the conditions set out above regarding filing of additional information, continued compliance with the Commission's ETC rule, not spending USF monies on income tax or depreciation expenses, and providing a local calling scope at least as large as the ILEC's local calling scope. In addition, the Commission excludes from the ETC designation the Winigan wire center. If MO5 does not strictly abide by the Commission's ETC rule, especially the provisions requiring that funds be spent only on USF supportable services, the Commission shall not certify MO5 as an ETC on an annual basis and shall rescind this ETC designation.

MO5 has shown that it intends to bring additional services and technology to rural telecommunications customers within the state of Missouri. MO5 has further shown that by granting MO5 ETC status, these rural customers will have better signal coverage, enhanced 911 capabilities, and more competitive choices for telecommunications service.

MO5 has met its burden to show that a grant of ETC status in the requested wire centers, with the exception of the Winigan wire center, is "consistent with the public interest, convenience, and necessity." Therefore, the Commission shall grant MO5's application for ETC designation with the exceptions and conditions set out herein.

IT IS ORDERED THAT:

1. Missouri RSA No. 5 Partnership's application to be designated an eligible telecommunications carrier for federal universal service fund purposes is granted with the exception of the Winigan wire center conditioned on compliance with the items set out in ordered paragraphs 2-6 below.

2. Missouri RSA No. 5 Partnership shall file no later than September 26, 2006, a revised budget and build-out plan as specified in the body of this order which includes only items for which USF support is intended as set out in 4 CSR 240-3.570(2)(A)2.A and which would not have been made without USF support.

3. Missouri RSA No. 5 Partnership shall not use Universal Service Funds for income tax or depreciation expense.

4. Missouri RSA No. 5 Partnership shall strictly abide by the provisions of 4 CSR 240-3.570.

5. Missouri RSA No. 5 Partnership shall not require a credit check for Lifeline customers.

6. Missouri RSA No. 5 Partnership shall provide a local calling scope for Lifeline and its "ILEC-equivalent" plans that is equal to or greater than the local calling scope of the incumbent local exchange carrier.

7. All objections not ruled on are overruled and all motions not granted are denied.

8. This Report and Order shall become effective on October 1, 2006.

BY THE COMMISSION

Colleen M. Dale
Secretary

(S E A L)

Davis, Chm., Murray, Gaw, Clayton, and Appling, CC., concur and certify compliance with the provisions of Section 536.080, RSMo.

Dated at Jefferson City, Missouri, on this 21st day of September, 2006.