

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

In the Matter of the Investigation of)
Aristotle Unified Communications, LLC) **File No. TO-2023-0XXX**
Related to the Connect America Fund)
Phase II Auction)

**MOTION TO OPEN AN INVESTIGATIVE DOCKET AND
STAFF MEMORANDUM**

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and for its *Motion to Open an Investigative Docket and Staff Memorandum* in this matter states as follows:

1. The Commission granted Aristotle Unified Communications, LLC, (Aristotle or Company) a registration to provide interconnected voice over internet protocol (IVoIP) services on December 14, 2018, and eligible telecommunications carrier status on February 2, 2019. The Federal Communications Commission (FCC) held an auction, the Connect American Fund Phase II Auction (CAFII), for which winning bidders would expand broadband services in designated locations throughout the United States, the results of which were issued on September 2018. Aristotle was one of those winning bidders in the CAFII auction for locations in Missouri.

2. Connected to the funding for the CAFII auction, the FCC issued a timeline for certain milestones in the broadband deployment to ensure deployment occurred in a timely manner. The first of these milestones was set for December 31, 2022. The Company is obligated to notify the FCC, the Universal Service Administrative Corporation (USAC) and the relevant state commission if it has failed to meet a milestone within 10 days of the milestone date.

3. Staff has met with representatives of Aristotle and has concerns that its broadband deployment milestone has not been met. To that end, Staff asks the Commission to open this investigatory docket as a repository for the evidence Staff has, and will continue to, collect and to accept Staff's Memorandum attached to this pleading as the first piece of that evidence. Staff also asks the Commission to direct Aristotle to file in response to *Staff's Memorandum*, an explanation including answers to the items identified specifically in the *Memorandum*. Staff intends to continue filing status reports periodically to update the Commission of its findings.

WHEREFORE, Staff prays that the Commission will accept this *Motion to Open Investigatory Docket and Staff Memorandum*; will issue an order that opens a docket for this matter; will order Aristotle Unified Communications, LLC, to file a response to Staff's Memorandum; and grant such other and further relief as is just in the circumstances.

Respectfully submitted,

/s/ Whitney Scurlock

Whitney Scurlock
Chief Deputy Counsel
Missouri Bar No. 64078
Attorney for the Staff of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 751-7434 (Telephone)
(573) 751-9285 (Fax)
whitney.scurlock@psc.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail, or First Class United States Postal Mail, postage prepaid, on this 22nd day of June, 2023, to all counsel of record.

/s/ Whitney Scurlock

MEMORANDUM

To: Official Case File

From: John Van Eschen, Regulatory Compliance Manager
Telecommunications Department

Date: June 22, 2023

Subject: Aristotle Unified Communications L.L.C.

The Missouri Commission Staff recommends the Missouri Commission open a docket to investigate Aristotle Unified Communications L.L.C.'s compliance in meeting broadband funding obligations. As will be briefly explained in this memo, Staff is not convinced the company is in compliance. A case, if established, should help resolve the issue of whether the company is deploying broadband service in a timely manner as required of the company's broadband funding obligations.

About the Company

Aristotle Unified Communications L.L.C. is a privately held company headquartered in Little Rock, Arkansas. Aristotle Inc. started providing dial-up internet services in 1995 and moved to a fixed wireless internet service in 2006. In 2010 Aristotle, Inc. spun-off broadband services to a separate company called Aristotle Unified Communications L.L.C. Aristotle Unified Communications L.L.C. began offering voice service in 2015. The company became authorized to provide interconnected VoIP service in Missouri effective December 14, 2018.¹ The Missouri Commission granted eligible telecommunications carrier status to the company effective February 2, 2019.²

Aristotle's Broadband Funding

In September 2018 the company was selected by the FCC as a winning bidder in the federal universal service fund high-cost program's Connect America Fund Phase II auction. The company was awarded funding to expand broadband services in designated portions of five states, Arkansas, Illinois, Missouri, Oklahoma and Mississippi. The company's winning bid in Missouri awards the company a total of \$3,001,544 in funding over ten years. In turn the company is required to deploy

¹ Case No. DA-2019-0159.

² Case No. TA-2019-0147. ETC status essentially means the company is eligible to receive federal USF support from the low-income and/or high-cost programs.

broadband service to 788 Missouri locations in Howell, Oregon and Ozark counties.³ Aristotle started to receive the funding in July 2019. In this regard, Aristotle annually receives \$300,154 through July 2029 for expanding broadband service within Missouri. The company is required to deploy broadband service to all 788 targeted locations by December 31, 2025.

To ensure broadband is deployed in a timely manner the FCC has established a series of milestones whereby a company is required to deploy broadband to a designated percentage of the targeted locations. The initial broadband deployment milestone established by the FCC requires a CAF II winning bidder to deploy the requisite broadband service to 40% of the targeted locations within approximately three years.⁴ In this instance Aristotle is required to deploy broadband service to 315 of the 788 targeted locations in Missouri by December 31, 2022. The FCC requires winning bidders to report specific location coordinates to USAC on where the company has deployed broadband service. In turn USAC posts this information on the National Broadband Map so that the public can view broadband availability and progress achieved to expand broadband service availability.

The FCC has established rules for compliance and record keeping for the high-cost program.⁵ FCC rules state, "...For purposes of determining whether a default has occurred, a carrier must be offering service meeting the requisite performance obligations..."⁶ Companies with defined build-out milestones are required to notify the FCC, USAC and the relevant state commission within 10 business days after the applicable deadline if they have failed to meet a build-out milestone. FCC rules then provide a series of tiers whereby increased reporting is imposed and a certain percentage of the company's funding is withheld until the company is considered no longer in default.

State commissions have a role in this funding in two ways: the designation of status as an eligible telecommunications carrier (ETC) and the annual certification of ETCs eligible to receive federal high-cost support funding. In general the FCC requires a company to be designated as an ETC from the relevant state commission.⁷ In turn, the FCC requires a state commission to annually certify ETCs eligible to receive federal high-cost support.⁸ Failure to obtain ETC status will

³ From a technical perspective the company's winning bid consists of providing broadband service with a minimum speed of 25/3 Mbps using a fixed wireless technology.

⁴ The second broadband deployment milestone is 60% by the end of 2023, 80% by the end of 2024 and 100% by the end of 2025.

⁵ § 54.320 Compliance and record-keeping for the high-cost program.

⁶ FCC rule § 54.320(d)(1).

⁷ FCC rule §54.204. Missouri Commission rule 20 CSR 4240-31.016 identifies ETC application requirements..

⁸ FCC rule §54.314. This rule requires a state commission to annually certify that carriers have used and will use federal universal service fund high-cost support as intended by the Telecommunications Act. Missouri Commission rule 20 CSR 4240-31.015(3) identifies ETC annual filing requirements.

prevent a company from receiving any federal USF funding. Likewise, failure of a company to receive annual certification from a state commission will stop a company's high-cost support funding for the next calendar year.

Aristotle's Compliance with Broadband Deployment Obligations

Last year Staff flagged the company as a company to watch because Aristotle had not made any noticeable progress in deploying broadband in Missouri after several years of funding. In response to a Staff inquiry in May 2023 the company claims to have deployed broadband service to a sufficient number of Missouri locations to meet the company's initial broadband deployment milestone. Despite this claim the company's current website continues to reflect broadband service is unavailable in Missouri.⁹ The National Broadband Map also fails to reflect any broadband deployment by Aristotle for Missouri. A June 9, 2023 conference call with company officials revealed the company is currently 60 days or more from being able to offer broadband service to any Missouri consumers. This revelation deserves further investigation as well as an opportunity for the company to better and more fully explain why Aristotle should be considered compliant in meeting its broadband funding obligations.

Next Steps

Staff recommends the Commission establish an investigatory docket to further investigate Aristotle in meeting its broadband deployment obligations. Although Staff anticipates submitting data requests to the company to investigate the claim the company has met its initial broadband deployment obligation, the Commission should direct Aristotle to file a response. At a minimum the response should be of sufficient detail to address the following items:

- Fully explain the company's broadband deployment progress, to date, in Missouri.
- Provide a copy of any documentation submitted to USAC regarding broadband deployment in Missouri.
- Identify specific towers, location and date of installation of facilities used to deploy the company's fixed wireless broadband service in Missouri.
- Explain why the company believes it is acceptable to claim broadband service has been deployed to a location when the company is unable to actually offer broadband service to that location. Cite any relevant FCC decisions supporting this belief.
- Explain why the company is unable to currently provide broadband service to any Missouri consumers.
- Explain the company's specific future plans for ensuring it meets subsequent broadband deployment milestones.

⁹ www.aristotle.net

Such information will be helpful in resolving whether Aristotle is compliant in meeting its broadband deployment funding obligations for Missouri.

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AFFIDAVIT OF JOHN VAN ESCHEN

STATE OF MISSOURI)
)
COUNTY OF COLE) ss.

COMES NOW JOHN VAN ESCHEN and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing *Motion to Open Investigative Docket and Staff Memorandum*; and that the same is true and correct according to his best knowledge and belief.

Further the Affiant sayeth not.



JOHN VAN ESCHEN

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 22nd day of June 2023.

DIANNA L VAUGHT Notary Public - Notary Seal STATE OF MISSOURI Cole County My Commission Expires: July 18, 2023 Commission #: 15207377
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Dianna L. Vaught
Notary Public