

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

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

STAFF’S STATEMENT OF POSITIONS

COMES NOW the Staff of the Missouri Public Service Commission and states its positions on the five issues presented in the Proposed Issues List:

Issue 1. Telecommunications companies seeking eligible telecommunications carrier (“ETC”) status must meet the requirements of Section 214(e)(1) throughout the service area for which designation is received. Section 214(e)(1) requires a carrier to offer the services that are supported by Federal universal service support mechanisms either using its own facilities or a combination of its own facilities and resale of another carrier’s services (including the services offered by another eligible telecommunications carrier); and to advertise the availability of such services and the charges therefore using media of general distribution. Does U.S. Cellular meet the requirements of Section 214(e)(1) throughout the service area for which it seeks ETC designation?

Staff’s Position: Yes. The supported services are listed in Federal Communications Commission (FCC) Rule 47 CFR Section 54.101(a). The Direct Testimony of U.S. Cellular witness Lowell states that U.S. Cellular provides each of the listed services. (Ex. 4, p. 2-4). The Direct Testimony of U.S. Cellular witness Wright states that U.S. Cellular is willing to advertise its services. (Ex. 5, p. 5).

Issue 2. ETC designations by a state commission must be consistent with the public interest, convenience and necessity pursuant to Section 214(e)(2). Section 214(e)(2)

provides: A State commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the State commission. 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. 4 CSR 240-3.570(2)(A)(5) provides that an application for designation as an ETC include 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. Is granting ETC status to U.S. Cellular consistent with the standards set forth in Section 214(e)(2) and 4 CSR 240-3.570(2)(A)(5)?

Staff Position: No. Paragraph (2)(A)3.G of the Commission's ETC rule requires an applicant to state how the proposed plans would not otherwise occur absent the receipt of the high-cost support and that such support will be used in addition to any expenses the carrier would normally incur. U.S. Cellular's initial application stated that it would use high-cost support to construct sixteen cell sites that would not otherwise be constructed in the absence of high-cost support. However, in the absence of high-cost support, U.S. Cellular built or started four of those sixteen cell sites in the summer of 2006. (Supplemental Rebuttal Testimony of Staff witness McKinnie, pp. 12-13). It is not in the public interest to grant ETC designation for

U.S. Cellular to receive high-cost support, given that U.S. Cellular does not need that support to construct cell sites in its proposed plan.

Issue 3. The Commission has promulgated rules to be used in evaluating ETC applications. Commission Rule 4 CSR 240-3.570, Requirements for Carrier Designation as Eligible Telecommunication Carriers, effective June 30, 2006. Does U.S. Cellular meet the requirements of the Commission's ETC rules?

Staff Position: No. As explained in the supplemental Rebuttal Testimony of Staff witness McKinnie, U.S. Cellular meets most but not all of the criteria. Specifically, U.S. Cellular does not meet the following portions of the Commission's ETC Rule:

- Paragraph (2)(A)1. and Subsection (3)(A): no submission of map or location for existing cell site locations.
- Subsection (3)(D):
 - No submission of specific investment estimated for each project (only investment aggregated over a number of projects)
 - Lack of justification for including certain items as supported services
- Subsection (3)(F):
 - no submission of basis of determination for improvements not needed in certain wire centers
 - no list of wire centers that do not need improvements
 - no demonstration of how funding otherwise will be used to further the provision of supported service in all areas.

Issue 4. AT&T proposes the following issue: Is U.S. Cellular's proposed use of federal Universal Service High-Cost support with respect to its network improvement plans in AT&T

Missouri's wire center areas consistent with the requirement to use support only for the purpose "for which the support is intended." 47 U.S.C. § 254(e); 4 CSR 240-3.570(2)(A)(2).

Staff Position: The issue of whether U.S. Cellular meets the requirement of paragraph (2)(A)(2) of the Commission's ETC rule is covered by Issue 3 which asks whether U.S. Cellular meets the requirements of the Commission's ETC rules. The Staff's position concerning U.S. Cellular's compliance with the Commission's ETC rule is set forth under Issue 3.

Issue 5. CenturyTel, STCG and AT&T propose the following issue: The Commission recently approved ETC status for Missouri RSA No. 5 Partnership in Case No. TO-2006-0172 and for Northwest Missouri Cellular Limited Partnership in Case No. TO-2005-0466. The ETC service areas granted by the Commission for these new ETCs overlap portions of U.S. Cellular's proposed ETC service area. Is granting ETC status to multiple wireless carriers in wire centers, also currently served by the incumbent ETC, in the public interest?

Staff Position: The fact that the Commission has granted ETC status to Missouri RSA No. 5 Partnership and to Northwest Missouri Cellular Limited Partnership for some wire centers for which U.S. Cellular is also seeking ETC status may be considered under the general public interest analysis of Issue 2 but is not a stand-alone issue. The Staff's position concerning the public interest analysis of U.S. Cellular's application is set forth under Issue 2.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 11th day of December, 2006.

/s/ William K. Haas

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