

Exhibit No.:
Issue: Other, Telephone
Specific
Witness: Adam C.
McKinnie
Sponsoring Party: MoPSC
Type of Exhibit: Rebuttal
Testimony
Case No.: TO-2005-0466
Date Testimony Prepared: May 09, 2006

MISSOURI PUBLIC SERVICE COMMISSION

UTILITY OPERATIONS DIVISION

REBUTTAL TESTIMONY

OF

ADAM C. McKINNIE

NORTHWEST MISSOURI CELLULAR - WIRELESS/CELLULAR

CASE NO. TO-2005-0466

Jefferson City, Missouri

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

NP

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

In the Matter of the Application of)
Northwest Missouri Cellular Limited)
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-2005-0466

AFFIDAVIT OF ADAM C. MCKINNIE

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

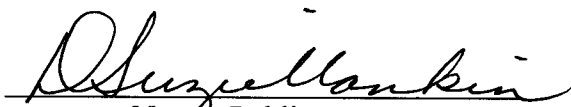
Adam C. McKinnie, of lawful age, on his oath states: that he has participated in the preparation of the following Rebuttal Testimony in question and answer form, consisting of 22 pages of Rebuttal Testimony to be presented in the above case, that the answers in the following Rebuttal Testimony were given 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 4th day of May, 2006.

D. SUZIE MANKIN
Notary Public - Notary Seal
State of Missouri
County of Cole
My Commission Exp. 07/01/2008



Notary Public

My commission expires _____

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1 **Rebuttal Testimony**

2 **Of**

3 **Adam C. McKinnie**

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9 **Northwest Missouri Cellular – Wireless/Cellular**
10 **TO-2005-0466**
11
12

13 **Introduction, Education and Experience**

14 Q. Please state your name and business address.

15 A. My name is Adam C. McKinnie. My business address is 200 Madison
16 Street, Jefferson City, MO 65102-0360.

17 Q. By whom are you employed?

18 A. I am employed by the Missouri Public Service Commission (MoPSC or
19 Commission) as a regulatory economist for the Telecommunications Department Staff
20 (Staff) of the Commission.

21 Q. What is your educational background?

22 A. I hold a Bachelor of Arts degree in English and Economics that I received
23 from Northeast Missouri State University (now called Truman State University) in May
24 1997. I also hold a Master of Science degree in Economics (with electives in Labor, Tax,
25 and Industrial Organization) that I received from the University of Illinois in May 2000.

26 Q. What are your current responsibilities at the Commission?

27 A. I review, analyze, and prepare recommendations on controversial tariff
28 filings for both competitive and non-competitive companies, interconnection agreements,

1 certificate applications and merger agreements. I also analyze cost studies and models
2 related to cost structures of companies for various contentious tariff filings. I have also
3 conducted research and worked on special projects related to telecommunications and
4 economics.

5 Q. Have you worked on any cases or projects that are related to your
6 testimony in this case?

7 A. Yes, I have. I was the Staff witness in Case No. TO-2003-0531, *In the*
8 *Matter of the Application of Missouri RSA No. 7 Limited Partnership, d/b/a Mid-Missouri*
9 *Cellular, for Designation as a Telecommunications Company Carrier Eligible for*
10 *Federal Universal Service Support Pursuant to Section 254 of the Telecommunications*
11 *Act of 1996* (first MMC case), the first case in which the Commission considered a
12 wireless carrier's request for designation as an eligible telecommunications carrier (ETC)
13 for the purpose of receiving universal service support, and in Case No. TO-2005-0384,
14 *Application of USCOC of Greater Missouri, LLC For Designation As An Eligible*
15 *Telecommunications Carrier Pursuant To The Telecommunications Act Of 1996* (US
16 Cellular Case). I have also filed testimony in Case No. TO-2004-0527, *In the Matter of*
17 *the Application of WWC License, LLC, d/b/a CellularOne(R), for Designation as an*
18 *Eligible Telecommunications Carrier, and Petition for Redefinition of Rural Telephone*
19 *Company Service Areas* (Western Wireless ETC Case), Case No. TO-2005-0325, *In the*
20 *Matter of the Third Application of Missouri RSA No. 7 Limited Partnership d/b/a Mid-*
21 *Missouri Cellular for Designation as a Telecommunications Company Carrier Eligible*
22 *for Federal Universal Service Support pursuant to § 254 of the Telecommunications Act*
23 *of 1996*, and Case No. TO-2006-0172, *In the Matter of the Application of Missouri RSA*

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1 *No. 5 Partnership for Designation as a Telecommunications Company Carrier Eligible*
2 *for Federal Universal Service Support Pursuant to § 254 of the Telecommunications Act*
3 *of 1996 (MO5 ETC Case). I have worked on the annual federal Universal Service Fund*
4 *(USF) certification process.*

5 I have also worked on the Missouri rulemaking for ETC designations in Case No.
6 TX-2006-0169, *In the Matter of Proposed New Rule 4 CSR 240-3.570 Regarding Eligible*
7 *Telecommunication Carrier Designations for Receipt of Federal Universal Service Fund*
8 *Support*. The Final Order of Rulemaking (MO ETC Rule) has been filed at the Secretary
9 of State's office. The version of the rule included with the final order of rulemaking is
10 included as schedule ACM-1.

11 Q. Have you testified in any other previous Commission cases?

12 A. Yes, in addition to the cases listed above, I have testified in Case No. IO-
13 2003-0281, *In the Matter of the Investigation of the State of Competition in the*
14 *Exchanges of Sprint Missouri, Inc.*, Case No. TO-2005-0035, *In the Matter of the Second*
15 *Investigation into the State of Competition in the Exchanges of Southwestern Bell*
16 *Telephone, L.P., d/b/a SBC Missouri*, Case No. IO-2006-0316, *In the Matter of*
17 *CenturyTel of Missouri, LLC's Request for Competitive Classification Pursuant to*
18 *Section 392.245.5, RSMo. (2005)*, and Case No. IO-2006-0317, *In the Matter of Spectra*
19 *Communications Group, LLC d/b/a CenturyTel's Request for Competitive Classification*
20 *Pursuant to Section 392.245.5, RSMo. (2005)*.

21 Q. What is the purpose of your testimony?

22 A. The purpose of my testimony is to respond to Northwest Missouri Cellular
23 – Wireless/Cellular (NWMC)'s application for ETC status filed on June 3, 2005; the

1 Direct Testimony of Northwest Missouri Cellular Limited Partnership (NWMC)
2 witnesses Reeves, Bundridge, and Zentgraf filed on February 13, 2006; and the
3 Supplemental Direct Testimony of NWMC witnesses Bundridge and Reeves filed on
4 April 17, 2006. My testimony will explain that Staff is currently not in favor of granting
5 NWMC's request for ETC status because NWMC's submitted application, Direct
6 Testimony, and Supplemental Direct Testimony do not meet all the requirements of the
7 MO ETC Rule.

8 **Appropriate Guidelines**

9 Q. What guidelines did Staff use in evaluating NWMC's ETC Application for
10 the purpose of this testimony?

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

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

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

1 **Staff Analysis**

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

4 A. Staff has reviewed NWMC's application and pre-filed testimony and
5 determined it meets the following requirements:

- 6 • (2)(A)1. – Intended use of high-cost support;
- 7 • (2)(A)3. subparagraphs A-E – A demonstration that universal service
8 support shall be used to improve coverage, service quality or capacity on a
9 wire center-by-wire center basis throughout the Missouri service area;
- 10 • (2)(A)4. – Ability to remain functional in an emergency;
- 11 • (2)(A)6. – Commitment to advertise;
- 12 • (2)(A)7. – Commitment to provide Lifeline and Link Up;
- 13 • (2)(A)9. – Acknowledgement of equal access requirements; and
- 14 • (2)(B) - A commitment to follow and a copy of the Cellular
15 Telecommunications and Internet Association (CTIA) code.

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

18 A. Subsection (2)(A) of the MO ETC Rule describes materials and
19 commitments that "shall" be included in an application requesting ETC designation.
20 There are a few areas where NWMC's discussion of the MO ETC Rule appeared
21 confusing. Staff was able to clarify NWMC's discussion of these areas through Data
22 Requests. There were also a few areas that NWMC was clearly lacking in its
23 commitments. Paragraph (2)(A)5. (public interest demonstration), paragraph (2)(4)8.

1 (consumer privacy and service quality standards) and paragraph (2)(A)10. (local usage
2 comparable to the ILECs) are areas where the NWMC application or pre-filed testimony
3 do not meet the requirements of the MO ETC rule.

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

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

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

13 NWMC witness Bundridge states in his Supplemental Direct on page 4, starting
14 on line 20 that,

15 While there are a few wire centers that do not have
16 improved coverage proposed through the addition of a new cell
17 site, these wire centers are expected to receive improvements
18 through the proposed capacity increases identified.

19 To provide further clarity, Staff issued a Data Request to NWMC asking that it
20 define “these wire centers”. In response to the Staff Data Request, NWMC stated that
21 these wire centers are ** _____ **. With
22 this additional information, NWMC satisfies the requirements of this subparagraph.

23 The full Data Request and response are attached as Schedule ACM-2.

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

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1 Each request for ETC designation shall include a plan
2 outlining the method for handling unusual construction or
3 installation charges.

4 Q. Does NWMC provide any information regarding subsection (2)(C)?

5 A. Yes, NWMC does. In his Supplemental Direct Testimony, on page 13,
6 beginning on line 10, NWMC witness Bundridge outlines a plan for handling unusual
7 construction or installation. However, the requirement is to provide a plan for handling
8 the charges associated with the unusual construction or installation. Because of the
9 apparent misunderstanding of this section, Staff issued a Data Request to NWMC
10 requesting clarification of the plan.

11 In response to the Staff Data Request NWMC responded:

12 To the extent that any of the identified installation or
13 construction options are completed and have charges associated
14 with them, these charges will be specifically identified and
15 accounted for and ETC funds will be used to pay for these charges.

16 The full Data Request and Response are attached as Schedule ACM-3.

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

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

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

23 A. Yes, there were three areas where the application or pre-filed testimony is
24 clearly lacking. These areas include a commitment to satisfy consumer protection
25 standards, a commitment to offer a local usage plan comparable to the ILEC and a
26 demonstration that the ETC designation is in the public interest.

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

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

6 Q. Does NWMC meet this requirement?

7 A. No it does not. NWMC witness Bundridge discusses this paragraph in his
8 Supplemental Direct Testimony beginning on page 8, line 19. While Mr. Bundridge
9 discusses the lack of applicability of the “service quality standards” in great detail, he
10 never commits to NWMC following the “consumer privacy protection standards”
11 denoted in the paragraph. Without this explicit commitment, NWMC does not meet the
12 requirements of this paragraph.

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

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

17 Q. Does NWMC meet this requirement?

18 A. No it does not. MMC witness Bundridge discusses this requirement in his
19 Supplemental Direct Testimony, beginning on page 10, line 17. In his discussion, Mr.
20 Bundridge provides many details about the uniqueness of NWMC’s local usage plans,
21 but never makes a commitment to offer a plan that will be comparable to the plans
22 offered by the underlying ILECs and never affirmatively states that any of NWMC’s
23 local usage plans are comparable.

24 As I stated in my Direct Testimony, the local calling area
25 that NWMC will offer to subscribers will equal or exceed in size
26 the calling area offered by the local LECs, which will reduce intra-

1 LATA toll charges associated with the service offered by these
2 wireline carriers. Customers of these LECs placing calls to
3 destinations beyond their local calling areas incur toll charges,
4 while NWMC customers making similar calls within NWMC's
5 service area will avoid such charges. In addition, many of
6 NWMC's calling plans include bundles of minutes which can be
7 used for placing calls, whether local or domestic toll, without the
8 caller incurring any additional per minute charges or toll charges.
9 NWMC's plans also offer mobility including, in most cases
10 roaming in other markets. Finally, NWMC will make available
11 multiple local usage plans that prospective customers can select
12 from as part of its universal service offering.

13 Q. In Staff's opinion, does NWMC offer a plan that is comparable to the
14 plans offered by the underlying ILECs.

15 A. Yes, NWMC does. In Staff's opinion, NWMC's "ILEC-Equivalent" plan
16 as described in NWMC witness Bundridge's Direct Testimony is comparable to the plans
17 offered by the underlying ILECs. While this plan may not have the exact same
18 characteristics as an underlying ILEC's "local usage plan", the price of \$9.70 is
19 comparable to the prices for basic local residential service offerings for the underlying
20 ILECs and the plan offers unlimited local calling. The plan also includes vertical features
21 not included in the regular basic local residential service offerings of the underlying
22 ILECs.

23 Q. Is Staff satisfied that NWMC meets the requirements of Paragraph
24 2(A)(10).?

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

1 Q. Does Staff have any other areas of the application that it would like to
2 discuss at this time?

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

4 A two (2)-year plan demonstrating, with specificity, that
5 high-cost universal service support shall only be used for the
6 provision, maintenance and upgrading of facilities and services for
7 which the support is intended in the Missouri service area in which
8 ETC designation was granted.

9 Subparagraph (2)(A)3.G. of the MO ETC Rule requires:

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

14 The two-year plan is a key component to the Commission's consideration of
15 NWMC's request for designation as an ETC. Therefore, it is important to highlight the
16 high-cost support amounts NWMC intends to use to satisfy the requirements of
17 subparagraphs (2)(A)2. and (2)(A)3.G.

18 NWMC plans to receive \$1,468,614 annually in USF high cost monies (Zentgraf
19 Direct, p. 15, lines 22-23) and plans to spend ** _____ ** on improvements in year
20 one (Appendix M, Bundridge Supplemental Direct). NWMC indicated it would file a
21 revised version of Appendix M in order to clarify its spending amounts in future years.
22 As NWMC witness Bundridge has included a statement that, "These potential cell sites
23 could only be constructed if USF support is made available to NWMC" (Bundridge, Supp
24 Direct, page 5, lines 12-13), Staff is satisfied that NWMC meets the requirements of
25 paragraph (2)(A)2. and subparagraph (2)(A)3.G. for the first year of their plan. The
26 supplemental filing and updates provided in the annual certification process will need to

1 include sufficient evidence that these provisions of the rule are met for year two and
2 future years.

3 Without this additional information, Staff cannot state for certain that all funds
4 NWMC expects to receive in year 2 will be spent on appropriate items; thus, there is no
5 demonstration currently for year 2 that “such support will be used in addition to any
6 expenses that the ETC would normally incur.” (subparagraph (2)(A)3.G.)

7 **Public Interest**

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

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

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

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

16 A. Yes, there is. On March 17, 2005, the FCC released a decision¹ regarding
17 how the FCC would evaluate applications before the FCC when applying for ETC status,
18 and recommending that the states use similar guidelines. The MO ETC Rule largely, but
19 not entirely, follows the *Report and Order*.

20 Q. What guidance does the *Report and Order* give regarding a public interest
21 analysis?

22 A. Paragraph 41 of the *Report and Order* states:

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*”)

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

20 The footnote to the "prior orders" the FCC references in the above paragraph
21 refers to both the *Virginia Cellular ETC Designation Order* (FCC 03-338, CC Docket 96-
22 45, Released January 22, 2004) and the *Highland Cellular ETC Designation Order* (FCC
23 04-37, CC Docket 96-45, Released April 12, 2004).

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

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

28 In considering whether designation of Virginia Cellular as
29 an ETC will serve the public interest, we have considered whether
30 the benefits of an additional ETC in the wire centers for which
31 Virginia Cellular seeks designation outweigh any potential harms.
32 We note that this balancing of benefits and costs is a fact-specific
33 exercise. *In determining whether designation of a competitive*
34 *ETC in a rural telephone company's service area is in the public*
35 *interest, we weigh the benefits of increased competitive choice, the*
36 *impact of the designation on the universal service fund, the unique*
37 *advantages and disadvantages of the competitor's service offering,*

1 *any commitments made regarding quality of telephone service, and*
2 *the competitive ETC's ability to satisfy its obligation to serve the*
3 *designated service areas within a reasonable time frame.* (italics
4 added)

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

7 The items in the italicized phrase above were used in Staff's determination of
8 whether or not NWMC's application is in the public interest.

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

12 A. NWMC witness Bundridge, in his Supplemental Direct Testimony, on
13 page 6, beginning on line 15, writes:

14 **Q. Will NWMC Comply with 2.A.5 - A demonstration**
15 **that the commission's grant of the applicant's request for ETC**
16 **designation would be consistent with the public interest,**
17 **convenience and necessity?**

18 A. As I stated in my Direct Testimony, NWMC has brought
19 wireless service to many rural parts of its FCC-licensed service
20 area and offers a level of coverage better than its competitors in the
21 market. As extensive as NWMC's coverage is in this market, there
22 are still significant portions of its FCC-licensed service area that
23 would greatly benefit from enhanced CDMA coverage. These
24 represent some of the most rural portions of its licensed market.
25 Perhaps even more important than the general availability of
26 enhanced wireless services, the expansion of NWMC's service into
27 these most rural areas would bring wireless E911 services to those
28 areas. While the ILECs have done an outstanding job of bringing
29 911 and E911 to many rural communities, access to those
30 lifesaving services is limited to the ability of the person in need to
31 reach a wired telephone. In sharp contrast, wireless communication
32 brings the emergency access to the individual. The farmer with a
33 CMRS phone who is injured in the field no longer needs to be able
34 to reach a wired telephone to summon help. Wireless access to
35 emergency services can help to mitigate the unique risks of

1 geographic isolation associated with living in rural communities.
2 Where the local PSAP is capable of processing the data, the
3 NWMC network is capable of providing locational information for
4 CDMA automatic location identification (“ALI”)-capable handsets
5 for all calls placed to 911. However, only the CDMA handsets are
6 capable of providing this critical locational information and then,
7 and then only when operating in a CDMA coverage area.

8 Significantly, wireless E911 service is not limited to
9 NWMC subscribers. NWMC’s wireless E911 service is available
10 to any compatible handset in NWMC’s coverage area, whether or
11 not the user is a NWMC customer, the customer of a competitor or
12 not even a customer of any service provider. The NWMC network
13 routes all 911 calls regardless of the status of the caller. This is
14 even true for a customer whose wireless phone service has been
15 disconnected. If the caller’s handset is not ALI-capable, NWMC
16 still routes the call to the emergency personnel and provides
17 information with respect to the cell site location from where the
18 call originated and, except with respect to a non-activated cell
19 phone, such a phone that is sold for placing 911 calls only, a call
20 back number.

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

23 A. Yes. Mr. Bundridge identifies the following public interest benefits: new
24 code division multiple access (CDMA) coverage for “significant portions of [NWMC]’s
25 FCC-licensed area”; and access to E-911 services for “significant portions of [NWMC]’s
26 FCC-licensed area” from enhanced CDMA coverage, even if the caller to 911 does not
27 subscribe to NWMC’s service.

28 Q. The excerpt above refers the reader back to NWMC Bundridge’s Direct
29 Testimony. What information regarding the public interest is contained within NWMC
30 witness Bundridge’s Direct Testimony?

31 A. On page 10 of his Direct Testimony, beginning on line 3, NWMC witness
32 Bundridge writes:

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

5 A. NWMC has brought wireless service to many rural parts
6 of its FCC-licensed service area and offers a level of coverage
7 better than its competitors in the market. The cost of providing
8 those services continues to rise. However, in the highly
9 competitive wireless service market of today, it is not enough for
10 NWMC to offer better coverage if its service offerings are not
11 competitive with respect to features, functionality and price.
12 Unlike NWMC's wireless competitors that also have licenses in
13 major urban areas, NWMC is only licensed to offer commercial
14 mobile radio service ("CMRS") in Missouri RSA 1. The higher-
15 cost of providing service in this rural area must be supported solely
16 from revenues derived in this market. Yet, for competitive reasons,
17 NWMC has to match the pricing offered by the major nationwide
18 carriers who typically choose to offer quality services only along
19 the major traffic arteries and largest population centers in the rural
20 markets.

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

26 As extensive as NWMC's coverage is in this market, there
27 are still significant portions of its FCC-licensed service area that
28 would greatly benefit from enhanced CDMA coverage. These
29 represent some of the most rural portions of its licensed market.
30 Highly Confidential Application Appendix E identified the
31 construction timeline for each cell site as specified by NWMC.
32 Appended hereto is a revised Appendix E which has been revised
33 to correlate with Application F (Revised) which NWMC's
34 technical consultant, Jonathan D. Reeves, introduces in his Direct
35 Testimony This Appendix E (Revised) is intended to replace the
36 original Appendix E in the Application, and contains information
37 deemed to be Highly Confidential by NWMC. Mr. Reeves has
38 testified that Appendix F (Revised) corrects the coverage depicted
39 from these proposed cell sites. The proposed cell sites and their
40 construction timeline, which are the portions of Appendix E
41 (Revised) which I am introducing into testimony, are unchanged
42 from those set forth in the original Application. A minority of the
43 cell sites are identified in Appendix E (Revised) as cell sites that

1 NWMC would most likely implement during the five year plan
2 even without ETC designation. USF support could allow NWMC
3 to accelerate the deployment of those cell sites. The construction
4 timeline for each cell site included in that plan was prepared under
5 my direct supervision. Mr. Reeves has provided testimony
6 including an engineering analysis of the proposed coverage from
7 each new cell site, on a wireline-by-wireline basis, as well as
8 Application Appendices F (Revised) and G (Revised), which are
9 maps depicting the general area where NWMC would look to
10 deploy additional cell sites over the next five years, based upon my
11 direction, as well as the coverage associated with those new sites.
12 Mr. Reeves has also prepared an appendix to his Direct Testimony,
13 Appendix H, depicting the proposed coverage from the proposed
14 network enhancement plan in conjunction with the existing
15 NWMC cell sites. Since NWMC would not receive USF support
16 based upon its own cost but would be limited to support based
17 upon the various underlying LEC levels of support, NWMC would
18 have to time the construction of its facilities to the amount of
19 support actually received and the order of construction between the
20 proposed sites, which are based upon our current projection of
21 customer demand, could be altered if actual customer demand
22 varies from those projections. It should be noted that the customer
23 demand would only affect the order of construction of new cell
24 sites and not amount of USF support that would be spent on
25 network enhancement.

26 Perhaps even more important than the general availability
27 of enhanced wireless services, the expansion of NWMC's service
28 into these most rural areas would bring wireless E911 services to
29 those areas. While the ILECs have done an outstanding job of
30 bringing 911 and E911 to many rural communities, access to those
31 lifesaving services is limited to the ability of the person in need to
32 reach a wired telephone. In sharp contrast, wireless
33 communication brings the emergency access to the individual. The
34 farmer with a CMRS phone who is injured in the field no longer
35 needs to be able to reach a wired telephone to summon help.
36 Wireless access to emergency services can help to mitigate the
37 unique risks of geographic isolation associated with living in rural
38 communities. Where the local PSAP is capable of processing the
39 data, the NWMC network is capable of providing locational
40 information for CDMA automatic location identification ("ALI")-
41 capable handsets for all calls placed to 911. However, only the
42 CDMA handsets are capable of providing this critical locational
43 information and then, only when operating in a CDMA coverage
44 area.

1 Significantly, wireless E911 service would not be limited to
2 NWMC subscribers. NWMC's wireless E911 service is available
3 to any compatible handset in NWMC's coverage area, whether or
4 not the user is a NWMC customer, the customer of a competitor or
5 not even a customer of any service provider. The NWMC network
6 routes all 911 calls regardless of the status of the caller. If the
7 caller's handset is not ALI-capable, NWMC still routes the call to
8 the emergency personnel and provides information with respect to
9 the cell site location from where the call originated and, except
10 with respect to a non-activated cell phone, such a phone that is sold
11 for placing 911 calls only, a call back number.

12 Q. Can you briefly summarize the public interest benefits stated in the above
13 excerpt?

14 A. Yes. Mr. Bundridge identifies the following public interest benefits: the
15 need to subsidize service for a company who only serves in rural areas; the need to
16 subsidize unfunded federal mandates, such as E911; enhanced CDMA coverage in areas
17 without sufficient CDMA coverage, enhancements that wouldn't be built without the
18 USF monies; CDMA E-911 benefits, even to users who do not subscribe to NWMC's
19 services.

20 Q. Does NWMC provide any additional information about a public interest
21 analysis?

22 A. Yes. In its original Application, beginning on page 16, NWMC discusses
23 some additional public interest benefits. Briefly, these include: the benefits of increased
24 competition, such as an incentive for ILECs to modernize their network or increased rate
25 competition and overbuilding their remaining time division multiple access (TDMA)
26 network with CDMA technology.

1 Q. Can you evaluate the submitted information of NWMC using the FCC-
2 recommended five factors to determine if NWMC has made a “demonstration” of “public
3 interest convenience, and necessity”?

4 A. Yes, I can.

5 1. “the benefits of increased competitive choice”

6 Consumers will benefit from having an additional choice of telecommunications
7 providers in locations where NWMC does not currently offer service but would offer
8 service after the implementation of their 5 year plan. Areas where NWMC currently does
9 not offer service are identified as white spaces in Highly Confidential Appendix O
10 attached to NWMC witness Reeves’ Direct Testimony. Those areas that will receive
11 service after implementation of the 5 year plan are changed to green spaces in Highly
12 Confidential Appendix H attached to Mr. Reeves Direct Testimony. Consumers who
13 currently receive NWMC’s service will receive no additional benefit.

14 While NWMC provides information on this aspect of the public interest standard,
15 the FCC noted that increased competition in of itself is not sufficient to meet the public
16 interest standard. Paragraph 4 of the Virginia Cellular Order states:

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

20 2. “the impact of the designation on the universal service fund”

21 According to NWMC witness Zentgraf’s Direct Testimony, on page 15, lines 22-
22 23, NWMC expects to receive \$1,468,614 annual in total USF support. NWMC witness
23 Zentgraf states that NWMC’s expected portion of the fund is .0358% of the total high
24 cost USF support.

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

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

7 3. “the unique advantages and disadvantages of the competitor’s
8 service offering”

9 NWMC cites the ability to make E-911 calls resulting from enhanced CDMA
10 coverage as a public interest benefit of its application. Staff agrees that the ability to call
11 911 from a wireless telephone is a very important public interest and public safety
12 consideration, and that the benefits from having an enhanced 911 (or “E-911”) system are
13 significant. However, if a wireless carrier other than NWMC provides wireless coverage
14 in areas where NWMC does not currently serve, residents already reap the benefits of
15 calling 911. If the area already has a wireless carrier providing E-911 service, the
16 benefits of granting ETC designation to NWMC are further reduced.

17 Unfortunately, it is difficult to determine the benefit of an additional wireless
18 network. As wireless networks are prone to “dead spots” and coverage gaps, it is
19 possible that a redundant network would improve E-911 or 911 coverage to areas within
20 NWMC’s proposed ETC designation areas. There are certainly public interest benefits in
21 improving 911 and E-911 coverage in this manner. However, NWMC has provided no
22 evidence about the current status of 911 or E-911 wireless coverage in its requested ETC
23 designation areas. Without this information, it is difficult to fully evaluate the increased
24 benefits from NWMC’s proposed network expansion.

25 4. “any commitments made regarding quality of telephone service”

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

5 5. “the competitive ETC’s ability to satisfy its obligation to serve the
6 designated service areas within a reasonable time frame”

7 NWMC is already serving much of its designated service area so this analysis is
8 somewhat moot. However, NWMC has submitted a five year plan to indicate where
9 network improvements will be made throughout their service area. While it does not
10 appear there are large coverage gaps in the proposed ETC area, NWMC certainly works
11 towards filling those gaps “within a reasonable time frame”.

12 Q. After evaluating the public interest benefits through the FCC guidelines,
13 what ultimate recommendation does Staff have regarding whether or not NWMC has
14 made a “demonstration” of their application being “consistent with the public interest,
15 convenience and necessity”?

16 A. There are still important considerations regarding commitments not made
17 so far in the MO ETC Rule and information needing to be filed regarding the amount of
18 money expected to be spent in year 2 of the plan. Until those problems are addressed,
19 Staff cannot say that NWMC has demonstrated their application is in the public interest.

20 The public interest benefits from enhanced 911 coverage and 911 coverage are
21 issues that Staff took into consideration in making its recommendation. The applicant
22 has stated precisely where network improvements will be made and where emergency
23 service coverage will/may be enhanced (depending on current underlying coverage).

1 These improvements are a step in the right direction for demonstrating how the ETC
2 designation will be in the public interest.

3 Q. Paragraph 41 of the *Report and Order* also states the FCC will conduct a
4 creamskiimming analysis in areas where an applicant requests a study area smaller than
5 the service area of a rural ILEC. Has NWMC performed such a study?

6 A. Yes. The study begins on page 12 of the Application and is further
7 discussed in NWMC witness Reeves' testimony beginning on page 4, line 17.

8 Q. Is Staff satisfied that creamskiimming is not an issue in this case?

9 A. Yes, Staff is satisfied.

10 **Conclusion**

11 Q. Based on Staff's analysis, does Staff recommend the Commission grant
12 NWMC's request to be granted as an ETC?

13 A. No, Staff does not. NWMC has not made all of the commitments
14 necessary to satisfy the requirements of the MO ETC Rule, specifically in the areas of
15 consumer protection and committing to offering a comparable local usage plan. Further,
16 NWMC has not provided updated documentation for its intended use of high-cost support
17 for year two of the two-year plan. Finally, additional information on the current wireless
18 911 and E-911 coverage would further assist the Commission in its evaluation of the
19 public interest demonstration requirement. As the applicant had the finalized MO ETC
20 Rule language available during the evidentiary process, Staff based its recommendation
21 on its interpretation of the rule which was sent to the Secretary of State's Office for final
22 publication. Application of the rule in the instant case will establish a standard for future
23 ETC designation cases before the Commission.

Rebuttal Testimony of
Adam C. McKinnie

1 Q. Does this end your testimony?

2 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.

Schedule ACM – 2 is deemed
Highly Confidential in its Entirety

2. On page 13 of NWMC witness Bundridge's Supplemental Direct Testimony, beginning on line 7, Mr. Bundridge 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:

To the extent that any of the identified installation or construction options are completed and have charges associated with them, these charges will be specifically identified and accounted for and ETC funds will be used to pay for these charges.