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March 31, 2003

**HAND DELIVERY**

Mr. Dale Hardy Roberts  
Secretary/Chief Regulatory Judge  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102

**FILED<sup>3</sup>**  
**MAR 31 2003**  
**Missouri Public  
Service Commission**

**Re: In the Matter of the Application of Missouri RSA No. 7  
Limited Partnership d/b/a Mid Missouri Cellular 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-2003-288**

Dear Mr. Roberts:

Enclosed for filing in the above case is an original and eight copies of  
RESPONSE TO MOTION TO DISMISS.

If you have any questions concerning this filing, please contact Paul DeFord in  
our Kansas City office.

Thank you for your attention to this matter.

Sincerely,

LATHROP & GAGE L.C.

By   
Susan C. Kliethermes  
Paralegal

enclosures

cc: Office of Public Counsel  
Office of General Counsel

JCDOCS 13721v1

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

076  
**FILED**<sup>3</sup>  
MAR 31 2003

Missouri Public  
Service Commission

In the Matter of the Application of )  
Missouri RSA No. 7 Limited Partnership )  
d/b/a Mid-Missouri Cellular for )  
Designation as a Telecommunications )  
Carrier Eligible for Federal Universal )  
Service Support Pursuant to Section 254 )  
of the Telecommunications Act of 1996. )

Case No. TO-2003-288

**RESPONSE TO MOTION TO DISMISS**

COMES NOW Missouri RSA No. 7 Limited Partnership d/b/a Mid-Missouri Cellular (MMC) and for its response to the Staff of the Missouri Public Service Commission's (Staff) Motion to Dismiss states as follows:

1. On March 19, 2003, Staff filed its Motion to Dismiss MMC's Application for Designation as an eligible telecommunications carrier (ETC) pursuant to Sections 214 and 254 of the Telecommunications Act of 1996 (Act). Staff contends that the Commission lacks subject matter jurisdiction over the facilities and services of commercial mobile radio services (CMRS) carriers such as MMC.

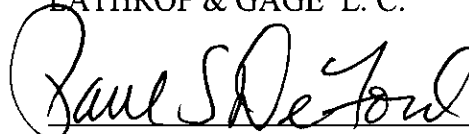
2. Staff further points out that Section 214(e)(6) of the Telecommunications Act anticipates that state commissions may not have jurisdiction over all carriers that seek ETC designation. According to Staff where state commissions lack jurisdiction, an ETC applicant may request ETC designation from the FCC. Staff contends that MMC will not be harmed by a dismissal because MMC may petition the FCC for ETC designation. Staff cites a number of cases in which the FCC has addressed ETC designation for wireless carriers making proper application.

3. MMC has considered Staff's motion and based upon the premise that the FCC would exercise jurisdiction if MMC were to make a proper application requesting designation of ETC status, and has determined that it will not oppose Staff's motion to dismiss.

WHEREFORE, MMC respectfully requests that the Commission expeditiously grant Staff's motion to dismiss so that a proper application may be submitted to the FCC.

Respectfully submitted,

LATHROP & GAGE L. C.



Paul S. DeFord

#29509

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#### **CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or e-mailed to all counsel of record this 31st day of March, 2003.

John B. Coffman  
Office of the Public Counsel  
P.O. Box 7800  
Jefferson City, MO 65102

