

1                               BEFORE THE PUBLIC SERVICE COMMISSION  
2                               STATE OF MISSOURI  
3                               \_\_\_\_\_  
4                               TRANSCRIPT OF PROCEEDINGS  
5                               HEARING  
6                               January 28, 2004  
7                               Jefferson City, Missouri  
8                               Volume 2  
9                               \_\_\_\_\_  
10  
11                   In the Matter of the Application of       )  
12                   Missouri RSA No. 7 Limited Partnership )  
13                   d/b/a Mid-Missouri Cellular for         ) Case No.  
14                   Designation as a Telecommunications     ) TO-2003-0531  
15                   Company Carrier Eligible for Federal     )  
16                   Universal Service Support Pursuant to    )  
17                   Section 254 of the Telecommunications    )  
18                   Act of 1996.  
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21  
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23                   \_\_\_\_\_  
24                   BEFORE:  
25                               NANCY M. DIPPELL,  
  SENIOR REGULATORY LAW JUDGE.  
                             STEVE GAW, Chair  
                             CONNIE MURRAY,  
                             ROBERT M. CLAYTON, III  
  
  COMMISSIONERS.  
  
22                   \_\_\_\_\_  
23                   REPORTED BY:  
24                   TRACY L. THORPE, CSR, CCR  
25                   ASSOCIATED COURT REPORTERS

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FOR: Staff of the Missouri Public Service Commission

1 JUDGE DIPPELL: Good morning. I apologize for  
2 the delay there. We had some traffic problems this morning.  
3 So we'll go ahead and go on the record, get started.

4 This is Case No. TO-2003-0531 in the matter of  
5 the application of Missouri RSA No. 7 limited partnership  
6 d/b/a Mid-Missouri Cellular for designation as a  
7 telecommunications carrier eligible for Federal Universal  
8 Service Support pursuant to Section 254 of the  
9 Telecommunications Act of 1996.

10 My name is Nancy Dippell and I'm the  
11 regulatory law judge assigned to this matter. I would like  
12 to begin with entries of appearance. I know that we have at  
13 least one attorney who is on his way and is stuck in a  
14 traffic snarl outside of town, Mr. Dandino for Public  
15 Counsel, so we'll let him make his appearance when he  
16 arrives.

17 Let's go ahead and begin with you, Mr. Poston.

18 MR. POSTON: Good morning. Marc Poston  
19 appearing for the Staff of the Missouri Public Service  
20 Commission, PO Box 360, Jefferson City, Missouri 65102.

21 JUDGE DIPPELL: Thank you.

22 Mr. DeFord?

23 MR. DEFORD: Paul S. DeFord appearing on  
24 behalf of RSA No. 7 doing business as Mid-Missouri Cellular,  
25 2345 Grand Boulevard, Kansas City, Missouri 64111.

1 JUDGE DIPPELL: Thank you.

2 And I will remind everyone to try to speak  
3 into your microphone when you're talking from the counsel  
4 table so that it can be picked up. Go ahead.

5 MR. STEWART: Charles Brent Stewart, the law  
6 firm of Stewart and Keevil, LLC, 4603 John Garry Drive,  
7 Suite 11, Columbia, Missouri 65203 appearing on behalf of  
8 Spectra Communications Group, LLC doing business as  
9 CenturyTel and also CenturyTel of Missouri, LLC.

10 MR. ENGLAND: Thank you, your Honor. Let the  
11 record reflect the appearance of W.R. England and Sondra B.  
12 Morgan on behalf of Alma and Citizens Telephone Company.  
13 Our address is Post Office Box 456, Jefferson City, Missouri  
14 65102.

15 JUDGE DIPPELL: All right. I did have a  
16 motion to be excused from counsel for Sprint that was filed  
17 last week. It's not the Commission's practice to actually  
18 excuse an attorney from appearing; however, we will not seek  
19 any kind of sanctions against someone for not appearing.  
20 They just waive their right to any objections at the hearing  
21 and so forth. Sprint asked to be allowed to file briefs.  
22 And unless there's any objection from other counsel, the  
23 Commission won't have a problem with that.

24 There was also some issues of conflict of  
25 interest with the attorneys. And since those attorneys are

1 not here, I guess that got all worked out; is that correct?  
2 Is there no longer any conflicts? Not going to have any  
3 arguments about that today?

4 MR. DEFORD: None from us, your Honor.

5 JUDGE DIPPELL: All right. All right then.  
6 What we're going to do then is we'll go ahead and pre-mark  
7 exhibits. And I'm going to go off the record for that. And  
8 then we'll back and begin with opening statements. We can  
9 go off the record.

10 (Exhibit Nos. 1 through 9 were marked for  
11 identification.)

12 JUDGE DIPPELL: Okay. We premarked the  
13 exhibits off the record and Mr. Dandino has arrived. Would  
14 you like to make your appearance, Mr. Dandino?

15 MR. DANDINO: A late appearance, yes, your  
16 Honor. I apologize to the Commission for being late.  
17 Michael Dandino, Office of the Public Counsel, Post Office  
18 Box 2230, Jefferson City, Missouri, 65102 representing the  
19 Office of Public Counsel and the public.

20 JUDGE DIPPELL: Great. We will adopt the  
21 order of witnesses and order of cross-examination and order  
22 of opening statements that the parties proposed. So we will  
23 begin with Mid-Missouri Cellular. And I will ask you to  
24 please come up to the podium and be sure to speak into the  
25 microphone.

1                   MR. DEFORD: May it please the Commission. My  
2                   name is Paul DeFord and I'm here today representing the  
3                   applicant, Missouri RSA No. 7 doing business as Mid-Missouri  
4                   Cellular.

5                   As you may know, this is a case of first  
6                   impression. Mid-Missouri Cellular is the first wireless  
7                   carrier to ask this Commission to certify it as an Eligible  
8                   Telecommunications Carrier, or an ETC, which would enable it  
9                   to receive cost support from the Federal Universal Service  
10                  Fund.

11                  Normally you would think that the Commission's  
12                  first decision on an issue such as this would have  
13                  significant precedential value. I don't think that's true  
14                  in this instance and I'll explain why in a few minutes.

15                  First, I want to touch on what a carrier must  
16                  demonstrate to be designated as an ETC. Section 214(e) (1)  
17                  of the 1996 Telecommunications Act requires that a carrier  
18                  must offer a number of things. Among them, voice grade  
19                  access to the public switch network, local usage, dual tone  
20                  multi-frequency signaling or its functional equivalent,  
21                  single-party service or its functional equivalent, access to  
22                  emergency services, access to operator services, access to  
23                  interexchange service, access to directory assistance and  
24                  toll limitation for qualifying low-income customers. In  
25                  addition, the carrier must advertise the price and

1       availability of those services.

2                       Section 214(2) of The Act adds the additional  
3       requirement that the Commission make a finding that the ETC  
4       designation is in the public interest where the area is  
5       served by a rural telephone company.

6                       The broken yellow line on the map here is --  
7       that's actually a slightly enlarged version of Appendix D to  
8       our application -- maybe not a slightly enlarged, maybe a  
9       greatly enlarged version -- outlines the entirety of  
10      Mid-Missouri's service area. And as you can see,  
11      Mid-Missouri service area covers all or portions of seven  
12      mostly rural counties in central Missouri.

13                      The fact that those counties are predominantly  
14      rural does not mean that they are served by rural telephone  
15      companies. You'll notice that a portion of the territory is  
16      served by Southwestern Bell, which is hardly a rural  
17      telephone company. For those areas, the Commission need not  
18      even reach the public interest issue.

19                      Now, having said that, I'm confident that the  
20      evidence presented will clearly demonstrate that  
21      Mid-Missouri is providing all of the services necessary to  
22      be granted ETC status, and more importantly, that such a  
23      grant is in the public interest.

24                      Mid-Missouri has demonstrated a commitment to  
25      bring state-of-the-art, innovative wireless service to

1 Missouri's rural customers at affordable rates. Making this  
2 additional choice available to those customers would benefit  
3 and enhance the economic growth for the entire state.

4           What makes Mid-Missouri Cellular in this case  
5 unique is that Mid-Missouri provides service only in  
6 Missouri. That means the Commission will be certain that  
7 all cost support received would be spent in Missouri for the  
8 benefit of Missouri customers. These facts make this case  
9 very narrow for precedential value.

10           There's an additional important factor to be  
11 kept in mind when deciding this case, and that's the reality  
12 of local number portability. The FCC has recently made  
13 clear that there be no artificial barrier to block the  
14 ability of a wireline customer to port its number to a  
15 wireless carrier.

16           Denying Mid-Missouri's application in this  
17 case would automatically and arbitrarily preclude existing  
18 lifeline and link-up subscribers transporting their wireline  
19 numbers to Mid-Missouri. I believe it would be difficult to  
20 explain and/or lawfully justify discriminating against those  
21 customers.

22           Moreover, denying this application would be  
23 tantamount to telling Missouri's rural citizens that they're  
24 not entitled to the same state-of-the-art wireless services  
25 that Missouri's urban wireless customers have.



1                   For that reason and for all of the reasons  
2           touched upon in the testimony of Mid-Missouri's witnesses, I  
3           would urge the Commission to grant the application in its  
4           entirety. Thank you.

5                   JUDGE DIPPELL: Thank you, Mr. DeFord.  
6                   Office of the Public Counsel?

7                   MR. DANDINO: Thank you, your Honor. May it  
8           please the Commission.

9                   Representing the Office of Public Counsel I  
10          usually like to make, on behalf of the consumers, a firm  
11          recommendation, either a yes or no. And if you'll notice in  
12          this case, the Office of Public Counsel has taken no  
13          position on this.

14                  And it's kind of unusual in a case which may  
15          have considerable impact on consumers, but as Mr. DeFord  
16          said, this is a case of first impression. And the facts in  
17          this case, there are some limiting factors to it, but  
18          there's also some broader factors that I think were raised  
19          in the testimony by some of the Intervenors.

20                  Therefore, the Office of Public Counsel are  
21          going to take a look and see. We're going to sit back and  
22          hear all the evidence and see what comes out in the hearing  
23          before we make a definite statement. It's unknown for the  
24          future of the USF and the impact on USF, it's unknown for  
25          the consumers.

1                   The Commission has to apply the public  
2     interest standard. The Commission has broad discretion in  
3     defining what is the public interest. And, in particular, I  
4     think you have to look at the impact that this will have on  
5     lifeline and link-up customers.

6                   Now, just kind of laying out kind of the  
7     dilemma we're looking at is we do see some of the advantages  
8     of granting ETC status to the applicant. One of the biggest  
9     things the Public Counsel has been concerned about is the  
10    availability of telecommunication service -- low-cost  
11    telecommunication service in rural areas where they would  
12    have access to an expanded calling scope.

13                  I'm not sure, you know, to what extent that  
14    service does provide that. I think it does. I mean, from  
15    the testimony that I read, it is going to provide at least a  
16    low-cost option for lifeline and link-up customers, at least  
17    it may be able where they could obtain wireless service at a  
18    lower cost. And that is important because we don't see many  
19    wireline local companies going into the rural areas and may  
20    never see it. So this may be the only competition.

21                  911, the availability of using the wireless or  
22    911 and, therefore, some of the people who may not have  
23    access to 911 and also just the distances and lack of  
24    density in the rural areas, wireless 911 may be a better  
25    proposition.

1                   And, of course, as Mr. DeFord brought out, is  
2                   the number portability issue. We certainly would want our  
3                   rural customers to have equal opportunity to number  
4                   portability between their wireline and wireless carriers.

5                   But I do see considerable disadvantage to it  
6                   also, which gives Public Counsel pause. One of the ones  
7                   that have been continuing, and I don't know about this  
8                   applicant, but it is -- and I think it's something the  
9                   Commission has to consider, is the continuing dispute  
10                  between the small companies, small wireline companies and  
11                  the wireless carriers about the wireless carriers paying  
12                  their fair share of the cost of the local loop through  
13                  access charges or through wireless termination charges.

14                  I certainly think that this Commission would  
15                  think twice before granting ETC status to any carrier who  
16                  would not agree to pay their fair share of the wireless  
17                  traffic that they put on the local loop.

18                  Also, the problem that confronts me -- and  
19                  it's more of a statutory problem -- is that the wireless  
20                  carriers are not regulated at all by this Commission. In  
21                  terms of prices, I'm not concerned about that necessarily,  
22                  but more I'm looking at in terms of a remedy where the  
23                  wireless carrier can go for quality of service questions and  
24                  for billing problems.

25                  I think the FCC's recent reports show that

1       those are the two areas which the consumers complain quite a  
2       bit about the wireless carriers. And without having a local  
3       contact to go to complain about -- and to try to rectify  
4       quality of service problems and billing problems, I think  
5       that's a definite possibility.

6                       And then finally, I think there's five words  
7       that can describe the problem with the wireless as a basis  
8       for a -- as a substitute for wireline basic local service.  
9       And those five words are, Can you hear me now? I think that  
10      there's a question of -- still a question of reliability and  
11      I think there's a -- especially in a rural areas where there  
12      may not be the connections, the towers and that.

13                      So for those reasons, Public Counsel is  
14      keeping an open mind toward this and we'll evaluate the  
15      evidence. And, you know, we certainly want to help the  
16      rural customers, but we also do not want this to adversely  
17      affect the USF fund or just be providing an inferior  
18      substitute for the rural customers. Thank you.

19                      JUDGE DIPPELL: Mr. Poston? Mr. Poston, could  
20      you set that chart/graph back down? Thank you.

21                      MR. POSTON: Good morning. May it please the  
22      Commission.

23                      As you've already heard, there appears to be  
24      no question that this case represents a case of first  
25      impression for the Commission. Mid-Missouri Cellular is the

1 first wireless carrier to petition the Commission for ETC  
2 status in order to receive Federal Universal Service Funds.

3 Congress, through the '96 Teleco Act, guides  
4 state commissions and the FCC in determining whether an  
5 additional carrier is qualified to take from the fund. To  
6 qualify, a carrier must offer the supported services, which  
7 include services that Congress determined would further the  
8 goals of universal service. In addition, and most  
9 importantly, designating a carrier an ETC must be in the  
10 public interest.

11 The sole purpose of the USF is to serve the  
12 public interest, so it would be absolutely contrary to those  
13 goals to allow a carrier access to Universal Service Funds  
14 if doing so did not benefit the public.

15 In determining whether a public interest --  
16 whether the public interest is served, the FCC has found  
17 that designation of an additional ETC in areas served by  
18 nonrural telephone carriers is, per se, in the public  
19 interest so long as they offer the supported services and  
20 use the USF funds as required.

21 Although the Staff doesn't challenge whether  
22 granting ETC status to Mid-Missouri Cellular for nonrural  
23 areas is in the public interest, we disagree with their  
24 assertion that the Commission would be forced to grant ETC  
25 status for a nonrural area if such designation was against

1 public interest. After all, the entire purpose of the fund  
2 is to benefit the public.

3 Now, when we look at requests for ETC  
4 designation in areas served by rural carriers, the  
5 Telecommunications Act requires this Commission and other  
6 state commissions to make a positive finding that such  
7 designation is in the public interest.

8 Who bears the burden of proving to the  
9 Commission that a particular ETC designation is in the  
10 public interest? The carrier requesting ETC status. And  
11 it's this burden, the burden of proving that the public  
12 interest will somehow be served -- it's this burden the  
13 Staff believes Mid-Missouri Cellular has not satisfied.

14 They make general assertions that competition  
15 will be enhanced, innovation will occur, prices will become  
16 more affordable, but nowhere does Mid-Missouri Cellular  
17 explain how this all will occur, aside from asserting that  
18 wireline lifeline customers will now be able to obtain  
19 discounted wireless service.

20 An ETC designation alone doesn't mean an area  
21 will become more competitive nor does it mean carriers  
22 receiving USF support will develop innovative services, new  
23 technologies or more affordable prices. Carriers seeking  
24 ETC status in rural areas must prove how the ETC grants will  
25 serve the public interest beyond the general assertions made

1 by Mid-Missouri Cellular.

2 That's the question that we believe is  
3 unanswered by this application and the supporting testimony.  
4 How exactly will the public benefit from this ETC  
5 designation?

6 Since Mid-Missouri Cellular did not and has  
7 not met its burden of proof in the eyes of Staff, the Staff  
8 does not recommend that the Commission grant ETC status to  
9 Mid-Missouri Cellular in areas served by rural carriers.

10 In regards to Staff's Rebuttal Testimony,  
11 Staff relied upon data from Mid-Missouri Cellular to  
12 conclude that the relationship between Mid-Missouri Cellular  
13 and Mid-Missouri Telephone Company, the ILEC, could allow a  
14 double dipping into the USF fund. However, Staff met with  
15 the company and received more up-to-date data through the  
16 discovery process to satisfy and remove the Staff's double  
17 dipping concern.

18 This change of position does not, however,  
19 change the Staff's belief that Mid-Missouri Cellular has  
20 failed to meet its burden of proving the receipt of USF  
21 funds will benefit the public. Thank you.

22 JUDGE DIPPELL: Thank you.

23 Mr. England?

24 MR. ENGLAND: Thank you, your Honor. May it  
25 please the Commission. I'm Trip England and I represent

1 Alma and Citizens Telephone Companies, Intervenors in this  
2 case.

3 Both Alma and Citizens Telephone Companies are  
4 incumbent local exchange carriers serving their respective  
5 service areas. Higginsville and the surrounding areas are  
6 the service areas for Citizens Telephone Company; Alma,  
7 Missouri is where Alma operates.

8 Both of these carriers, in addition to being  
9 incumbent local exchange carriers, have been designated  
10 carriers of last resort by this Commission. Both of them  
11 have been designated Eligible Telecommunications Carriers  
12 for purposes of receiving USF funds. And, in fact, these  
13 companies do receive USF funds today.

14 Both of these carriers serve rural areas.  
15 There has been absolutely no evidence in this fact that they  
16 aren't living up to their obligations as carriers of last  
17 resort or Eligible Telecommunications Carriers.

18 You have heard from counsel before me the  
19 criteria that The Act and the FCC has set out for purposes  
20 of designating an additional ETC in rural areas. I don't  
21 dispute that criteria. What we do dispute is the allegation  
22 or assertion by Mid-Missouri Cellular that a grant of their  
23 request for ETC status will be in the public interest. And  
24 I think that's the main issue that you all have to deal with  
25 in this case.



1                   I also disagree with Mid-Missouri Cellular  
2     when they attempt to argue that this case will not have  
3     precedential effect. I believe it will. It is a case of  
4     first impression. What you decide in this case, I believe,  
5     will have a great deal of effect on other wireless carriers  
6     who are operating in rural areas in the state. You don't  
7     have to look any further rather than the intervention of  
8     Sprint PCS in this case to know that they're very interested  
9     in the outcome of this case.

10                  Mid-Missouri Cellular's case is based  
11     primarily on the premise that a grant of ETC status will  
12     provide competition, and that is sufficient to meet the  
13     public interest standard or test. However, the FCC has just  
14     recently issued a decision in a case involving a cellular  
15     carrier's request for ETC status, among other things, in  
16     rural areas in the state of Virginia.

17                  And in that case the FCC found that the public  
18     interest standard or the public interest test requires  
19     something more than merely a showing that ETC designation  
20     will result in more competition.

21                  In the instant case not only has Mid-Missouri  
22     Cellular failed to show that a grant of ETC status will  
23     promote the public interest such as resulting in  
24     new services and technologies, it hasn't shown that  
25     competition will, in fact, be enhanced.

1                   The record in this case clearly indicates that  
2                   there are currently at least six wireless carriers providing  
3                   service in the areas served by Alma and Citizens Telephone  
4                   Companies. These six wireless carriers offer over  
5                   90 calling plans and rate packages. There is clearly robust  
6                   competition in these areas already and it has occurred to  
7                   date without the benefit of USF support for any of these  
8                   carriers, including Mid-Missouri Cellular.

9                   As I indicated as well, Mid-Missouri Cellular  
10                  has failed to demonstrate that a grant of ETC status will  
11                  provide customers with any universal service benefits that  
12                  they do not currently receive. It is somewhat ironic that  
13                  the robust competition that currently exists in these  
14                  exchanges seems to be the driving factor for Mid-Missouri  
15                  Cellular's request for ETC status and USF support.

16                 Mr. Kurtis, one of Mid-Missouri Cellular's  
17                 witnesses, candidly admits in his Surrebuttal Testimony that  
18                 it is this increased competition from wireless carriers that  
19                 has caused Mid-Missouri Cellular to lose roaming revenues,  
20                 revenues that were instrumental and helpful in them  
21                 establishing their service but now apparently has been lost  
22                 to competition. And that seems to be the primary reason for  
23                 their request of Universal Service Funds.

24                 We don't believe that that's an appropriate  
25                 purpose of the Universal Service Fund, to replace revenues

1       lost to competition, nor is it in the public interest. We  
2       think based on the instant record in this case, the  
3       Commission has no choice but to deny Mid-Missouri Cellular's  
4       request for ETC status. Thank you.

5                   JUDGE DIPPELL: Thank you, Mr. England.  
6                   Mr. Stewart?

7                   MR. STEWART: Thank you. Good morning. I'm  
8       Brent Stewart and I'm representing today Spectra  
9       Communications Group doing business as CenturyTel and  
10      CenturyTel of Missouri.

11                  I was going to use the map up here, but I  
12      think I'll just hold this up so you can get -- this is the  
13      small map from which the big map was taken, if you will.  
14      Spectra is a rural telecommunications company. And it's  
15      represented for the most part an orange on the MTIA map,  
16      with the exception of CenturyTel of Missouri serving the  
17      Branson, Columbia and Wentzville exchanges. So basically  
18      wherever you see orange in a rural area, that's going to be  
19      Spectra Communications.

20                  And back to the map --

21                  JUDGE DIPPELL: Go ahead and set that up. I  
22      just wanted it out of the way in between.

23                  MR. STEWART: I'll put it back down in just a  
24      second. If you look at Mr. DeFord's map, you'll notice that  
25      he has represented Concordia, which is a Spectra exchange in

1     the red, and that's entirely -- that's one full exchange  
2     very similar to Alma, within their requested service area.  
3     But you'll also notice that on the northeast side, he's  
4     requesting a portion of the Braymer exchange, a portion of  
5     the Kingston exchange and a portion of the Lawson exchange.

6             And, likewise, over on the east side, if I can  
7     find it, in the request in their application even though  
8     they show it in blue, they have Prairie Home, Rocheport and  
9     a portion of the Columbia exchange as well. Those would be  
10    CenturyTel exchanges. So anyway, that's kind of the map as  
11    to where we are with regard to their application.

12            It's not uncommon that after I follow Trip, he  
13    has stolen all of my thunder, so I will not repeat my  
14    opening remarks that accord with his. I will echo what he  
15    said on behalf of my clients, and simply say that despite  
16    the arguments made by Mid-Missouri Cellular regarding the  
17    lack of Commission jurisdiction in the earlier stages of  
18    this proceeding, CenturyTel believe the Commission's power  
19    is quite great when it comes to determining whether to grant  
20    wireless providers ETC status.

21            While it's certainly true that the Commission  
22    cannot violate the mandates of federal law, the Commission  
23    most certainly can exercise the powers granted to it by  
24    federal law to the fullest extent in order to protect the  
25    public interest and the overall public interest.

1                   After all, as the Commission heard yesterday  
2                   in the triennial review proceeding, this Commission is best  
3                   suited to engage in what the Feds call granular analysis at  
4                   the state level.

5                   You're going to hear some testimony today and  
6                   there's going to be some strange terms thrown around that  
7                   are peculiar to the Universal Service Fund. Study area is  
8                   one, service area is another, disaggregation, targeting of  
9                   per line support.

10                  Well, despite all of those terms, CenturyTel's  
11                  position in this proceeding is really quite simple. First,  
12                  that as an applicant, Mid-Missouri Cellular has the burden  
13                  to convince this Commission that granting Mid-Missouri  
14                  Cellular the ETC status it requests in the particular areas  
15                  it requests, that it conforms with federal law in all  
16                  respects and specifically with regard to the rural exchanges  
17                  in rural areas, that MMC's request serves the overall public  
18                  interest.

19                  Second, that the evidence will show that  
20                  Mid-Missouri Cellular has failed to meet its burden of  
21                  proof, especially when it comes to Mid-Missouri Cellular's  
22                  proposal to redefine's Spectra's study area by splitting up  
23                  Spectra's exchanges both from the overall study area  
24                  perspective and as well at the micro level within the  
25                  exchanges.

1                   Finally, that Mid-Missouri Cellular's  
2                   application, therefore, should be denied, or in the  
3                   alternative, at least held in abeyance until the Federal  
4                   State Joint Board issues it's now imminent recommendations  
5                   relating to the new criteria to be used in evaluating  
6                   requests such as those as Mid-Missouri Cellular. Thank you.

7                   JUDGE DIPPELL: Thank you, Mr. Stewart.

8                   Then we're going to go ahead and begin with  
9                   witnesses. Following the order proposed by the parties, we  
10                  will begin with Mid-Missouri Cellular's witnesses.

11                  MR. DEFORD: Call Kevin Dawson.

12                  JUDGE DIPPELL: Just one moment.

13                  Mr. Dawson, would you please raise your right  
14                  hand?

15                  (Witness sworn.)

16                  JUDGE DIPPELL: Thank you.

17                  Go ahead, Mr. DeFord.

18                  MR. DEFORD: Thank you, your Honor.

19                  KEVIN DAWSON testified as follows:

20                  DIRECT EXAMINATION BY MR. DEFORD:

21                  Q.        Would you state your name and business address  
22                  for the record, please?

23                  A.        Yes. Kevin Dawson. And our address is 1500  
24                  South Limit, Sedalia, Missouri 65301. And my position is  
25                  president and general manager of Mid-Missouri Cellular.

1           Q.       Did you cause to be prepared Direct and  
2       Amended Surrebuttal Testimony, which has been marked for  
3       purposes of identification for this proceeding Exhibits 1  
4       and 2?  
5           A.       Yes.  
6           Q.       If I were to ask you the questions set forth  
7       therein today, would your answers be substantially the same?  
8           A.       Yes.  
9           Q.       And would those answers be true and correct to  
10       the best of your information and belief?  
11          A.       Yes.  
12                 MR. DEFORD: Your Honor, I would tender the  
13       witness for cross-examination and offer Exhibits 1 and 2.  
14                 JUDGE DIPPELL: Would there be any objections  
15       to Exhibits No. 1 and 2 coming into the record?  
16                 MR. ENGLAND: No objection.  
17                 MR. STEWART: No objection.  
18                 JUDGE DIPPELL: Then I will admit Exhibit  
19       Nos. 1 and 2.  
20                 (Exhibit Nos. 1 and 2 were received into  
21       evidence.)  
22                 JUDGE DIPPELL: And we'll begin with Office of  
23       the Public Counsel.  
24                 MR. DANDINO: No questions of Mr. Dawson at  
25       this time. Thank you, your Honor.

1 JUDGE DIPPELL: Staff?

2 MR. POSTON: Thank you.

3 CROSS-EXAMINATION BY MR. POSTON:

4 Q. Good morning, Mr. Dawson.

5 A. Good morning.

6 Q. I'd like to start with your Surrebuttal

7 Testimony. You claim in your Surrebuttal Testimony that

8 without an ETC grant by this Commission, the Commission will

9 erect an artificial barrier to local number porting; is that

10 correct?

11 A. We said an artificial barrier, but not to

12 porting but being able to port lifeline customers -- the

13 ability of lifeline customers to port their number from

14 wireline to wireless.

15 Q. Okay. And it's also your position that

16 Mid-Missouri Cellular cannot provide lifeline services

17 without USF support?

18 A. That's correct.

19 Q. Is it possible that a current lifeline

20 customer would choose to forgo their lifeline benefits and

21 switch service to Mid-Missouri Cellular because they

22 consider wireless service to have benefits not available

23 from a wireline service?

24 A. Yes.

25 Q. And if a current ILEC lifeline customer chose



1 to switch to Mid-Missouri Cellular and forgo their lifeline  
2 support, would Mid-Missouri Cellular be able to provide  
3 local number portability to this customer?

4 A. Yes.

5 Q. If the Commission does not grant ETC status to  
6 Mid-Missouri Cellular, what will customers of Mid-Missouri  
7 Cellular or potential customers not receive other than  
8 lifeline that they would receive if Mid-Missouri Cellular  
9 was given ETC status?

10 A. I think certainly -- and Mr. Kurtis will touch  
11 on it also, you know. What we're talking about is providing  
12 advanced technology to the furthestmost regions of our  
13 seven-county service area and being the only carrier that  
14 would be providing that service to them.

15 And I think, you know, that enhanced  
16 technology is certainly something that -- that would --  
17 we're going to use the funds for certainly. And -- and  
18 getting -- getting that technology to the folks in the  
19 furthestmost points would be something that could be in  
20 jeopardy, certainly being able to provide that advanced  
21 technology.

22 Q. And in your testimony you give three examples  
23 of public interest benefits, those being the mobility of  
24 cell phones --

25 A. Right.

1           Q.       -- 911 calling from anywhere in the United  
2       States and pricing equal or below to what is charged by Alma  
3       and Citizens; is that correct?

4           A.       Correct. That's correct.

5           Q.       Isn't it true that current and future  
6       customers of Mid-Missouri Cellular with or without receiving  
7       ETC designation will benefit from these three public  
8       interest benefits?

9           A.       Not necessarily the -- with the exception of  
10      the lifeline support. You know, the ability to use enhanced  
11      911 and use it away from the home, you know, is something  
12      that the technology will bring that we're talking about with  
13      the funding. But, you know, the advantage of having the  
14      ability to provide the lifeline service would be something  
15      that would not be available.

16                   MR. POSTON: Thank you. That's all I have.

17                   JUDGE DIPPELL: Is there any cross-examination  
18      from Alma?

19                   MR. ENGLAND: Yes, your Honor.

20                   JUDGE DIPPELL: And I may refer to the parties  
21      as the way they were referred to in the order of witnesses  
22      as Alma and CenturyTel. I'm not leaving out Spectra or  
23      Citizens.

24                   MR. ENGLAND: I was going to say, can I come  
25      back later on behalf of Citizens?

1 JUDGE DIPPELL: Just one time.

2 MR. ENGLAND: Just one bite at the apple.

3 Fair enough.

4 CROSS-EXAMINATION BY MR. ENGLAND:

5 Q. Good morning, Mr. Dawson.

6 A. Good morning.

7 Q. I want to review with you as I understand the

8 corporate structure of Mid-Missouri Cellular. And my

9 questions are somewhat generated by testimony that actually

10 Staff Witness McKinnie had I think in his Rebuttal

11 Testimony. And he designated it highly confidential so I

12 want to be real careful I don't get into confidential

13 information without going in-camera.

14 A. Okay.

15 Q. I don't know if this information is still

16 confidential or not, so you stop me if we get into

17 confidential information so we can invoke the in-camera

18 provisions of the Commission.

19 A. Okay.

20 Q. Do you have a copy of Mr. McKinnie's Rebuttal

21 Testimony?

22 A. I do not have Mr. McKinnie's in front of me

23 right now.

24 MR. ENGLAND: Would counsel be able to provide

25 him with that?

1                   MR. DEFORD: Sure. Surrebuttal?

2                   MR. ENGLAND: No. Rebuttal.

3                   May I approach the witness?

4                   JUDGE DIPPELL: Yes.

5       BY MR. ENGLAND:

6                   Q.       Mr. Dawson, I'm handing you the Rebuttal

7       Testimony of Adam McKinnie, HC version. And I've turned it

8       to page 7 where he discusses the -- what I call the

9       corporate structure, ownership structure, whatever.

10                  A.       Yes.

11                  Q.       Do you see that?

12                  A.       Yes, sir.

13                  Q.       Okay. I guess before I begin my questions,

14       I'm going to ask you some questions about these entities

15       that are identified on this page. Do you all consider that

16       to be confidential?

17                  A.       Probably, you know, to the extent -- depending

18       on the extent, you know, what it would be, probably not.

19                  Q.       I wasn't --

20                  A.       I hope that's a good answer.

21                  Q.       -- going to get necessarily into the ownership

22       interests themselves, but just the entities having an

23       ownership interest in Mid-Missouri. Do you think that would

24       be okay on a public basis?

25                  A.       Yes.

1           Q.       If you want to confer with counsel or anybody  
2       else, that's fine.

3           MR. DEFORD: I think the ownership interest is  
4       probably public. I think when we get down to the detail,  
5       then we're getting into highly confidential information.

6           MR. ENGLAND: I'm going to try to stay out of  
7       the detail. I want to keep it at a fairly high level, but  
8       stop me if I do.

9           JUDGE DIPPELL: Are you saying, Mr. DeFord,  
10       that the structure is not confidential, but the amount of  
11       the ownership interest might be?

12          MR. DEFORD: That's correct, your Honor. And  
13       I'm not shy, I'll object.

14          JUDGE DIPPELL: Okay. Go ahead, Mr. England.

15          MR. ENGLAND: Thank you.

16       BY MR. ENGLAND:

17          Q.       First of all, Mid-Missouri Cellular, as I  
18       understand it, is a limited partnership. Correct?

19          A.       That is correct.

20          Q.       And entities having an interest in that,  
21       whether it's a limited partner, general partner, what have  
22       you, are Mid-Missouri Cellular, Inc.; is that right?

23          A.       Yes. Yes.

24          Q.       That is, I assume, a corporation?

25          A.       Correct.

1 Q. Okay. Bobber Subsidiary Corporation?  
2 A. Correct.  
3 Q. That's another owner, if you will, or another  
4 entity having an ownership interest?  
5 A. Correct.  
6 Q. And then MMC Holding Corporation; is that  
7 right?  
8 A. Correct.  
9 Q. Okay. Are there any others?  
10 A. No. Not to my knowledge.  
11 Q. Okay. Now, it's my understanding that  
12 Mid-Missouri Cellular, Inc., and Bobber Subsidiary  
13 Corporation are actually owned or controlled by MMC Holding  
14 Corporation; is that right?  
15 A. That is correct.  
16 Q. Okay. So is it fair to say that MMC Holding  
17 Corporation is sort of the ultimate owner, if you will, of  
18 Mid-Missouri Cellular --  
19 A. Yes, sir.  
20 Q. -- the applicant in this case?  
21 A. Yes.  
22 Q. Okay. Where does Mid-Missouri Telephone  
23 Company fit into that structure?  
24 A. I really can't -- I mean, I'm not sure exactly  
25 the breakdown --

1 Q. Okay.

2 A. -- of exactly how they fit into it.

3 Q. Okay.

4 A. I don't know.

5 Q. Mr. Jones probably will know that?

6 A. Probably will.

7 Q. You are aware that there is some sort of

8 affiliation between Mid-Missouri Telephone Company and

9 Mid-Missouri Cellular. Correct?

10 A. That's correct, yes.

11 Q. You just don't know exact --

12 A. Exactly what the -- right.

13 Q. Okay. My understanding is that Mid-Missouri

14 Cellular has been providing service in its service area

15 since approximately 1991; is that right?

16 A. Yes, sir.

17 Q. And it has done so continuously to today

18 without the benefit of any USF support. Correct?

19 A. That is correct.

20 Q. And as far as you're concerned, you provide a

21 high quality service comparable to that provided by other

22 cellular carriers competing in your area?

23 A. Yes.

24 Q. Okay. I believe you indicate in your

25 testimony that Mid-Missouri Cellular, as a CMRS provider, is

1 not subject to regulation by the Missouri Public Service  
2 Commission. Correct?

3 A. Correct.

4 Q. Specifically, Mid-Missouri Cellular is free to  
5 offer whatever calling plans it wants and charge whatever  
6 the market will bear?

7 A. In a competitive environment, right.

8 Q. Thank you.

9 And Mid-Missouri Cellular's also free to  
10 change those plans and rates on its own without any  
11 regulatory oversight in the future. Correct?

12 A. Yes.

13 Q. Now, you have attached to your, I believe,  
14 Direct Testimony a copy of the service agreement. I think  
15 it's the last attachment to your testimony.

16 A. Yes, sir.

17 Q. My understanding is that you have service  
18 agreements for varying periods of time?

19 A. That is correct, yes.

20 Q. Generally speaking, what types of terms do you  
21 have?

22 A. We offer month-to-month options, one-year  
23 contracts and two-year contracts.

24 Q. And I note that on the terms and conditions of  
25 cellular service, item 2 on the second page under Service



1 Commitment, the very last sentence, even if you have signed  
2 an agreement, it appears that MMC reserves the right to  
3 increase any and all rates upon 30 days notice to the  
4 customer; is that right?

5 A. That's correct.

6 Q. With respect to termination of service, if the  
7 customer is signed up for a long term, one- or two-year  
8 period of time, there is a penalty if they terminate service  
9 before the expiration of their term. Correct?

10 A. That is correct.

11 Q. If they are on a month-to-month arrangement  
12 with Mid-Missouri Cellular, they must give you 30 days  
13 written notice of their desire to terminate service.  
14 Correct?

15 A. That is -- that is correct.

16 Q. And recently did you not further impose on the  
17 customer the requirement that they deliver that notice in  
18 writing to your main office in Sedalia?

19 A. We have -- we have other retail locations  
20 that -- that they can stop and deliver that and we can fax  
21 it to our office, in Marshall, Higginsville and until  
22 recently Warrensburg.

23 Q. But it still requires 30 days written notice  
24 deliverable to the cellular company?

25 A. That is correct.

1           Q.     Okay. Let me switch gears on you. I want to  
2 ask a couple questions about local number portability. I  
3 believe it's your Surrebuttal Testimony, sir.

4           A.     Yes, sir.

5           Q.     As a matter of fact, you do not discuss local  
6 number portability in your Direct Testimony, do you?

7           A.     No, I did not.

8           Q.     Okay. But you do so in your Surrebuttal, I  
9 believe at page 3, beginning on line 10 continuing through  
10 the end of that page and I believe onto the next page.

11          A.     Yes. Correct.

12          Q.     And you note there that you have served a bona  
13 fide request, or BFR, on Alma and Citizens Telephone  
14 Companies, among others?

15          A.     Yes. That's correct.

16          Q.     Let me ask you a question with respect to  
17 local number portability as it relates to wireless to  
18 wireless local number portability.

19          A.     Yes.

20          Q.     Has Mid-Missouri Cellular implemented wireless  
21 to wireless LNP?

22          A.     No, sir. Not being in the top 100 market, we  
23 won't be until May 24th of 2004.

24          Q.     Okay. And for purposes of implementing  
25 wireline to wireless, or from Alma to Mid-Missouri Cellular

1 or from Citizens to Mid-Missouri Cellular, when do you want  
2 those companies to be LNP capable?

3 A. May 24th is what we had targeted.

4 Q. Okay.

5 A. I know there's been some rulings on those.

6 Q. Certainly no sooner than when you intend to  
7 implement it. Correct?

8 A. Yes, sir, correct.

9 Q. Okay. And do you intend to implement it on  
10 May 24th?

11 A. Yes.

12 Q. You have no plans to delay that or --

13 A. No.

14 Q. Okay. To date, has Mid-Missouri Cellular  
15 received any request from its customers to port their  
16 wireless number to another wireless carrier?

17 A. Informally.

18 Q. How many?

19 A. Probably 5 to 10. When -- when the top 100  
20 market started in November, approximately 5 to 10.

21 Q. Okay. I may be asking you highly confidential  
22 information -- or excuse me, a question that requires highly  
23 confidential information to respond.

24 How many customers does Mid-Missouri Cellular  
25 currently serve? And before you answer, is that something

1 we need to go in-camera?

2 MR. DEFORD: Total number?

3 MR. ENGLAND: Yes.

4 MR. DEFORD: In-camera? Yes.

5 MR. ENGLAND: As a matter of fact, maybe we

6 can -- that may be my only question. Maybe we can hold that

7 and do that at the end of my regular course of

8 cross-examination.

9 JUDGE DIPPELL: That would be good.

10 MR. ENGLAND: Paul, will you be sure to remind

11 me to ask that question?

12 MR. DEFORD: No.

13 BY MR. ENGLAND:

14 Q. Has Mid-Missouri Cellular to date received any

15 request from wireline customers of either Citizens or Alma

16 to port their wireline numbers to Mid-Missouri Cellular?

17 A. Not to my knowledge.

18 Q. In the Citizens case, do you know where you

19 want Citizens to port those numbers, the geographic

20 position, if you will, or place?

21 A. Right. Right. I mean, that will be outlined

22 through the process of setting up LNP. And -- and it's my

23 understanding based on the FCC rules and regulations that,

24 you know, certain exchanges, you know, covers the area that

25 they service. I think Mr. Kurtis could probably expand on

1       that certainly much better as our regulatory attorney.

2               Q.       Is it possible that you may ask Citizens to  
3       port that number outside of its serving area to, say, your  
4       main office in Sedalia, Missouri?

5               A.       No.

6               Q.       Do you know how many lifeline customers Alma  
7       currently serves?

8               A.       No, sir, I do not.

9               Q.       Same question with respect to Citizens.

10              A.       No.

11              Q.       If Mid-Missouri Cellular does not receive ETC  
12       status, will it withdraw its request for LNP to Alma and  
13       Citizens?

14              A.       No.

15              Q.       So your request for LNP is not contingent on  
16       just your ability to port lifeline customers. Correct?

17              A.       Not just on that, no.

18              Q.       Is Mid-Missouri Cellular seeking USF support  
19       for all the customers it serves or just those subscribers  
20       that subscribe to lifeline services?

21              A.       For all the customers we service.

22              Q.       So, in other words, MMC, or Mid-Missouri  
23       Cellular, is going to seek USF support for all of its  
24       customers regardless of the rate plans they subscribe to?

25              A.       That is correct.

1           Q.       Let me ask you about the amount of USF support  
2           you anticipate receiving. Do you know how much USF support  
3           you anticipate receiving if you are granted ETC status in  
4           its entirety as applied for in this case?

5           A.       Some numbers have been discussed.  
6           Specifically throughout the entire area, 1.7 million,  
7           approximately.

8           Q.       Well, I believe Mr. Schoonmaker had a  
9           1.75 million figure in his testimony.

10          A.       Yes.

11          Q.       You have no reason to dispute that?

12          A.       No.

13          Q.       And that would be on an annualized basis?

14          A.       Yes.

15          Q.       I think I've got another question for the  
16          highly confidential section. I'll hold off on that.

17                    Assuming that you are granted ETC status,  
18          assume that you receive USF support in the approximate  
19          amount of \$1.75 million a year. Would you agree with me  
20          that all other things being equal, this would increase your  
21          overall revenues and your profitability?

22          A.       Yes, it would.

23          Q.       Okay. Thank you, sir.

24                    MR. ENGLAND: I have, I think, two questions  
25          for highly confidential -- or that require highly

1 confidential or proprietary response and ask that we go  
2 in-camera, if that's appropriate at this time.

3 JUDGE DIPPELL: All right. I think we'll go  
4 ahead and do that then. Let's go to an in-camera session.  
5 Anyone in the room who's not been certified to hear highly  
6 confidential information -- I'll ask the attorneys to help  
7 police that.

8 MR. ENGLAND: I guess, first of all, is this  
9 going to be proprietary or highly confidential?

10 MR. DEFORD: I believe it's highly  
11 confidential.

12 JUDGE DIPPELL: Are you satisfied with that?

13 MR. ENGLAND: I'm fine. And as far as our  
14 folks are concerned, it's either counsel or our expert  
15 witness who have signed a nondisclosure agreement.

16 JUDGE DIPPELL: All right.

17 MR. DEFORD: I think I know everyone that's  
18 here.

19 (At this time, an in-camera session was held,  
20 which is contained in Volume No. 3, pages 51 through 53 of  
21 the transcript.)  
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1 JUDGE DIPPELL: Mr. Stewart, do you have  
2 questions for this witness?

3 MR. STEWART: I do, your Honor. Thank you.

4 CROSS-EXAMINATION BY MR. STEWART:

5 Q. Morning, Mr. Dawson.

6 A. Good morning.

7 Q. Did I understand it correctly when Mr. England  
8 asked you how long Mid-Missouri Cellular was operating in  
9 Missouri, and you said 1991 -- since 1991?

10 A. Right. He had said 1991, correct.

11 Q. And that is correct.

12 Would the same be true for Mid-Missouri  
13 Cellular offering service in Spectra's exchanges?

14 A. Not wholly. I'm sure as the market was built  
15 out as the system was built out. I don't have those dates  
16 available when cell sites were added, but in portions of,  
17 certainly. I mean, Concordia was probably one -- one of the  
18 original 14 cell sites of the 27 that we have currently.

19 Q. So at least in terms of Concordia, it's been  
20 since early '90s?

21 A. To the best of my knowledge, yes, sir.

22 Q. Would the same hold true for the CenturyTel  
23 exchanges?

24 A. The same would hold -- would be true.

25 Q. You referenced a number of calling plans in

1 your testimony. Are those plans currently offered in  
2 Spectra's service areas?

3 A. Yes. That -- yes.

4 Q. How long have those been offered?

5 A. Those plans were introduced in July, August  
6 time frame of 2003.

7 Q. Can you tell me generally what plans were in  
8 place prior to that time? I mean --

9 A. A variety of plans.

10 Q. -- were they more expensive, less expensive?  
11 More options, less options?

12 A. Somewhat comparable. A few more options with  
13 these certainly.

14 Q. I'll ask you the same question with regard to  
15 the CenturyTel exchanges --

16 A. Yes.

17 Q. -- on the service plans.

18 A. Yes.

19 Q. In your testimony you discuss, I believe,  
20 E-911, emergency 911 -- or enhanced 911 compliance?

21 A. Yes, sir.

22 Q. Isn't it true that Mid-Missouri Cellular is  
23 required by FCC rules to implement E-911 regardless of  
24 whether Mid-Missouri Cellular has ETC status?

25 A. Over -- over a period of time, yes, it is.

1 MR. STEWART: I believe that's all I have.  
2 JUDGE DIPPELL: Thank you.  
3 Are there any questions from this witness from  
4 the Bench, Chairman Gaw?  
5 CHAIR GAW: No.  
6 JUDGE DIPPELL: Commissioner Murray?  
7 COMMISSIONER MURRAY: A few. Thank you.  
8 QUESTIONS BY COMMISSIONER MURRAY:  
9 Q. Good morning.  
10 A. Good morning, Commissioner.  
11 Q. In your testimony, your Direct Testimony, on  
12 page 3 you indicate that -- and I'm at line 20, if the  
13 application is granted, MMC will take whatever steps are  
14 necessary to comply with FCC Rule 54.201 subsection D2?  
15 A. Yes.  
16 Q. And a part of that rule states that the  
17 carrier designated shall advertise the availability  
18 throughout the area. You don't do that now; is that right?  
19 A. We do. We do advertise, but not -- of course,  
20 not the lifeline type service, but we have regular  
21 advertising for our products and services.  
22 Q. Do you serve throughout the area now?  
23 A. Yes.  
24 Q. So there's nothing you have to change in terms  
25 of what you will do other than advertise lifeline?

1           A.       Correct.

2           Q.       Do you serve any other areas other than where  
3           you're seeking ETC designation?

4           A.       No, we do not. This is our only.

5           Q.       Now, I have some questions about the lifeline  
6           customers, but I'm thinking that it may be -- those  
7           questions may be more appropriate for Mr. Kurtis. Are you  
8           very familiar with how lifeline customers would be treated?

9           A.       Yes. Very -- yes, ma'am.

10          Q.       All right. Well, I'll ask you and if it's not  
11          appropriate to ask you, you can tell me and I'll ask  
12          Mr. Kurtis later.

13                    This question arose from his testimony on  
14          page 11 of his Direct. He spoke about the local calling  
15          area --

16          A.       Uh-huh.

17          Q.       -- that MMC would offer to subscribers and  
18          that being equal to or exceed in size the calling area  
19          offered by Alma, Citizens and MMTC and that would reduce  
20          intra-LATA toll charges associated with those customers.

21          A.       Yes.

22          Q.       All right. Now, he goes on to say that that's  
23          not the case for lifeline and lifeline customers whose local  
24          calling area will be co-extensive with that of the  
25          underlying local exchange carrier. And that raised a

1 question in my mind.

2 If you've got a customer now that's a cellular  
3 customer that once you're granted ETC status could apply for  
4 lifeline, does that mean that that customer would be charged  
5 then for toll charges for calls that it's not charged toll  
6 on currently?

7 A. The -- what -- what we propose with our  
8 lifeline service, Commissioner, is the -- is a reduced rate  
9 lifeline service that the customer can utilize that would  
10 limit or block their toll -- capabilities to make toll  
11 calls.

12 They would be able to make them to the  
13 exchange at which -- where they're located and also be  
14 limited to the cell or cells that service their home area or  
15 service their home itself, which would give them a 10- to  
16 18-mile radius.

17 Q. Now, would that be a necessary result of your  
18 getting ETC status or would that be something that  
19 Mid-Missouri Cellular would just decide to do?

20 A. It would be a necessary result of getting ETC  
21 status to be able to offer a service at that monthly fee.

22 Q. But could you offer the same service that you  
23 offer that customer now, which gives them a better -- a  
24 wider calling scope than they have through a landline local  
25 service?

1           A.       Right. Unfortunately, not at the 6.50 or 6.48  
2       rate that we had proposed at the \$6 rate.

3           Q.       But there's nothing in the rule that would  
4       mandate that, it's just your economic consideration; is that  
5       right?

6           A.       Correct. Yes.

7           Q.       So how much would they be getting off of their  
8       bill if they were lifeline eligible?

9           A.       If they were lifeline eligible, we would  
10      propose an \$8 rate which would be -- and with a \$1.75  
11      lifeline discount and then .48 in applicable taxes would  
12      apply. So essentially a \$6.25 monthly fee for that  
13      particular service.

14          Q.       And that would only give them the same local  
15      calling scope that they would have with the lifeline carrier  
16      in the area; is that right?

17          A.       That's correct. But the ability to travel  
18      outside of their home and within a 10- to 18-mile radius  
19      depending on cells that cover it and the ability to make 911  
20      calls nationwide.

21          Q.       I don't know where I got lifeline. I meant  
22      landline. I guess you knew what I meant.

23                  Then what if this was -- let's assume that  
24      that was a current Mid-Missouri Cellular customer. What  
25      would that Mid-Missouri Cellular customer currently today be



1       paying for your service?

2               A.       It would vary depending on -- depending on the  
3       footprint or the calling area that they chose, local  
4       calling, regional calling, nationwide -- nationwide  
5       coverage.

6               Q.       What if they just chose local?

7               A.       If they just chose the smallest local package,  
8       would be 19.95 a month.

9               Q.       What would that give them in terms of the  
10       calling scope?

11              A.       That would give them the seven-county area.  
12       And within that seven-county area they would have -- they  
13       would have 300 minutes of air time to use or 350 minutes, I  
14       believe it is, I don't have it in front of me, within the  
15       local calling area, seven-county area. And then once they  
16       went outside that area, it would be a flat rate, 70 cents  
17       per minute.

18              Q.       And assume that same customer -- assume you  
19       get ETC status and that same customer becomes a lifeline  
20       customer and dials outside of the smaller local calling  
21       scope --

22              A.       Uh-huh.

23              Q.       -- what would the per minute rate be?

24              A.       Well, what we're proposing is actually a toll  
25       restrict on that, I believe --

1           Q.       No --

2           A.       -- Commissioner, where they are not able to

3 place that call outside of their local exchange.

4           Q.       Would you expect that any customers that are

5 currently your customers would apply for lifeline?

6           A.       I think it's quite possible in, you know,

7 between, you know, prepaid service versus post-paid service,

8 there would be a certain percentage that certainly would

9 want to take advantage of that rate.

10          Q.       So if you served any customer as a lifeline

11 customer, you would have toll restrict on it. Is that

12 your --

13          A.       Yes.

14          Q.       And the universal service support that you

15 would receive as a result of being designated an ETC would

16 apply to every customer you serve. Did I hear that?

17          A.       Correct.

18          Q.       And how would that be measured?

19          A.       That would be -- if I may pass that off to

20 Michael, I think that would kind of fall into his expertise

21 a little bit more than mine exactly.

22          Q.       And the universal service support that you

23 would receive, you're indicating you would use that in the

24 manner that would enhance the services to the customers

25 within the area in which you would be designated and that is

1       what would make this a benefit to those customers; is that  
2       right?

3             A.       Yes.   Yes, ma'am.

4             Q.       And how specifically would you enhance those  
5       services?

6             A.       Different technology platforms.  We're  
7       currently a TDMA platform.  We'd be deploying --

8             Q.       Excuse me.  Stop there, please.

9             A.       I'm sorry.

10            Q.       What kind of platform?

11            A.       TDMA platform is our service.

12            Q.       What is that?

13            A.       That's currently -- TDMA is a digital  
14       technology.  We were the first to bring into the marketplace  
15       several years ago.  And it's an outdated technology at this  
16       point.  So we would need to bring the -- bring the CDMA  
17       technology, which is an advanced, faster data, enhanced 911,  
18       the ability for a handset base identifying where the  
19       actual -- where the person actually is as part of the  
20       phase 2.  But that -- those types of technologies, what we'd  
21       be rolling out to the entire service area versus just  
22       portions of it.

23            Q.       But I thought you said TDMA platform was a  
24       digital technology that's outdated.  Did I hear you right?

25            A.       It is basically.  I mean, everybody's going

1 away from the TDMA platform in the industry.

2 Q. So I didn't understand what you said you'd do  
3 with Universal Service Funding. You would use it to get  
4 away from that platform?

5 A. To go -- to provide enhanced services and  
6 technologies through -- by going to the CDMA throughout the  
7 area.

8 Q. Are you saying TDMA or CDMA, or are they two  
9 different things?

10 A. I apologize. They're two different things,  
11 Commissioner. We're currently a TDMA protocol platform and  
12 we'd be going to the CDMA, which Michael can explain a  
13 little bit more the advantages of the CDMA certainly.

14 Q. You'll have to forgive me because these are  
15 acronyms that --

16 A. I apologize.

17 Q. -- we've not been using, so -- at least not  
18 that I recall.

19 A. Yes.

20 Q. And you will not be doing that if you don't  
21 get ETC status?

22 A. Certainly, you know, we would have to look at  
23 our strategy, you know, as far as 911 and deploying some of  
24 these to -- to the furthestmost parts of our service area.

25 Q. And you're talking about deploying CDMA

1 platform to the furthest points --

2 A. Yes.

3 Q. -- of the service area?

4 A. To the entire area.

5 Q. Does that involve the provision of 911

6 service?

7 A. Yes, it does.

8 Q. Can you do 911 service without the CDMA

9 platform?

10 A. It is possible with the TDMA. It's not an

11 ideal solution, but it is possible with the current platform

12 that we have.

13 Q. And if you are not granted ETC status and

14 don't get Universal Service Funding support, are you

15 required to provide 911 service anyway?

16 A. Yes.

17 Q. So are you saying that you would still provide

18 it but you would do it under the old protocol?

19 A. That's a possibility. That would be a

20 possibility.

21 Q. And how would the customers benefit from being

22 served by CDMA versus being served by TDMA?

23 A. Certainly data speeds with that protocol, with

24 the CDMA, the speed that data can be transmitted, you know,

25 enhanced 911 services as we were talking about, voice

1       quality, the latest technology that's available out there  
2       for everyone in the seven-county area.

3               Q.       And what are some examples of the latest  
4       technology?

5               A.       The data -- the high-speed data, voice  
6       quality, picture phones being -- you know, something that's  
7       common in the larger metropolitan areas but has not reached  
8       out to the rural markets.

9               Q.       And are those the types of things that were  
10       envisioned by the Universal Service Fund -- for support by  
11       the Universal Service Fund?

12              A.       We feel that's, you know, part of that  
13       certainly, yes. You know, having same the advantages in the  
14       rural areas that the -- that are available in the  
15       metropolitan service areas.

16              Q.       Is there some dispute about whether Universal  
17       Service Funding was to support enhanced technologies?

18              A.       No. Everything that I've seen, you know, from  
19       the FCC basically, you know, says that that's -- that's what  
20       they understand, you know, the funds are going to be used  
21       for, a good portion of them is on the infrastructure.

22              Q.       And in those places where either the FCC or  
23       other states have granted ETC status to wireless carriers,  
24       are those the types of benefits that the wireless carriers  
25       have shown to be the reason for getting the ETC status?

1           A.       To my knowledge, yes. Along with a lifeline  
2       service and some of the other things that go along with it.

3           Q.       And a customer -- I'm going to pursue that  
4       just a little bit further. A current customer of Alma, for  
5       example --

6           A.       Yes.

7           Q.       -- who is a current lifeline customer, if  
8       Mid-Missouri Cellular is granted ETC status, would it  
9       benefit that customer to change to Mid-Missouri Cellular;  
10      and if so, in what way?

11          A.       We feel it would because it would give them a  
12      larger calling area from that cell or cells that service  
13      that and --

14          Q.       I'm sorry. You're going to have to stop and  
15      explain that to me because I'm getting confused.

16          A.       Okay.

17          Q.       Because I thought you said the lifeline  
18      customer would have the same calling scope as the landline  
19      customer.

20          A.       As far as who they could dial and dialing out.  
21      But from the standpoint of being wireless and not a fixed --  
22      you know, a fixed wireline service, they can leave their  
23      home --

24          Q.       Mobility?

25          A.       -- go to the back 40 and, you know, have the

1 ability to use it for 911 nationwide. So we think that  
2 offers more flexibility for the customer than they currently  
3 have.

4 Q. In terms of where they can have their phone  
5 when they need to use it?

6 A. Yes, ma'am. Right.

7 Q. What about if this lifeline customer who has  
8 toll blocking is traveling outside of the area? Can they  
9 really use it?

10 A. They can use it for 911, for emergency  
11 services.

12 Q. Only.

13 A. Highway Patrol, 911, star 55, for example,

14 Q. So there's no benefit in terms of the mobility  
15 other than for 911?

16 A. Correct. Correct.

17 Q. Would they be saving money if they switched to  
18 Mid-Missouri Cellular?

19 A. Yes. What we had proposed was an \$8 rate with  
20 the \$1.75 lifeline credit monthly, which equated to \$6.25.  
21 In Alma's case and -- both Alma and -- if I could reference  
22 this -- what they offer as a lifeline service -- I've got it  
23 here, I apologize -- currently Citizens plan is \$8.40, for  
24 example, and Alma's is \$6.40. What we had proposed is a  
25 \$6.25 rate for the customers. So there would be some



1       savings.

2               Q.       Do the Alma customers have toll blocking, do  
3       you know?

4               A.       I do not know. I'm going to assume they do.

5               Q.       Do you think all lifeline customers are toll  
6       block?

7               A.       Yes.

8                       COMMISSIONER MURRAY: I think that's all my  
9       questions for this witness. Thank you.

10               THE WITNESS: Thank you, Commissioner.

11               JUDGE DIPPELL: Thank you.

12               Commissioner Clayton?

13       QUESTIONS BY COMMISSIONER CLAYTON:

14               Q.       I just had a couple basic questions --

15               A.       Yes, sir.

16               Q.       -- from all my scribbles here.

17                       Could you describe the lifeline service to me?

18               A.       The lifeline service that we had proposed is  
19       a -- as -- is a service that has a low monthly rate, you  
20       know, for qualified low-income individuals. There are some  
21       qualifiers with it.

22                       And -- and with that, you know, once they  
23       qualify, they will be eligible at that point to subscribe to  
24       the service. And with that, we would -- we would identify  
25       where the customer is located, where the customer lives,

1       what their -- what exchange is local to that customer.

2                       We would allow unlimited calling to that

3       particular exchange from the cell or cell sites that

4       service -- service that user. The -- it would be toll

5       restricted, but it would be unlimited calling. And, of

6       course, the ability to dial 911.

7               Q.       Is there a restricted number of minutes on

8       that?

9               A.       No, there is not.

10              Q.       No restriction?

11              A.       What we're proposing would be unlimited,

12       Commissioner.

13              Q.       When you say "toll restricted," is that

14       calling outside of the --

15              A.       Yes. Correct.

16              Q.       -- the --

17              A.       The local exchange, the exchange that they're

18       located in.

19              Q.       Okay. There was some discussion earlier

20       regarding the amount of money that you all would receive if

21       we grant ETC status. Do you recall that amount?

22              A.       1.75 million.

23              Q.       And could you explain to me how that's based,

24       how that would be arrived at?

25              A.       If I could defer that to my colleague, to

1 Mr. Kurtis if that would be okay --

2 Q. That's fine.

3 A. -- Commissioner --

4 Q. That's fine.

5 A. -- that would be great.

6 Q. Well, if -- let's say assuming that we do

7 grant this ETC status and this money comes in, would you

8 just briefly explain to me again what plans for enhancement

9 of services that you all would do in your service territory?

10 A. Yes, sir. We have an extensive network in

11 place, we feel the most extensive in the seven-county area

12 of the licensed holders. We would continue to look at

13 opportunities to -- to build out additional sites to provide

14 even better coverage than we currently do.

15 Q. When you say build out sites, is that within

16 that --

17 A. Correct. The seven-county area, yes, sir.

18 Q. Would that be to eliminate dead spots?

19 A. Correct. Correct.

20 Q. Are you able to evaluate the amount of dead

21 spots that you have --

22 A. Yes.

23 Q. -- within the service territory?

24 A. Yes. Through drive testing and where the

25 needs of --

1           Q.       How do you evaluate that? Is that by number  
2 of areas? I mean, can you mark areas on a map --  
3           A.       Yes.  
4           Q.       -- where they would be or is it simply hit and  
5 miss, drive around?  
6           A.       No. We can mark on the maps. We have test  
7 gear and test equipment that can indicate signal levels  
8 throughout the market and where -- where it may be necessary  
9 to add a cell site.  
10          Q.       Is it a fair statement that regardless of  
11 whether we grant ETC status, that this Commission has -- do  
12 we have any way of enforcing any level of quality of service  
13 or quantity of service or levels of availability of service?  
14          A.       Yes. And I think Mr. Kurtis will address that  
15 also with the -- with the recent ruling that was discussed  
16 or order that was discussed on Friday from the FCC.  
17          Q.       Okay. If we do not grant ETC status, would  
18 you anticipate that Mid-Missouri Cellular will withdraw from  
19 the market?  
20          A.       No. I wouldn't anticipate withdrawing from  
21 the market.  
22          Q.       Okay.  
23          A.       Just maybe not being able to provide the  
24 services that we would like to.  
25          Q.       So basically would you all cut back on

1 services that are being offered right now?

2 A. We may not have the ability to be as

3 aggressive certainly given our position.

4 Q. Okay. Other than lifeline services, would any

5 other plan prices be reduced if ETC status is granted?

6 A. Certainly the competitive environment drives

7 prices. And we would -- it would help us, you know, from a

8 competitive standpoint as a rural only carrier be able to

9 provide, you know, certainly the best value for the

10 customer, be competitive.

11 Q. So is that a yes or a no?

12 A. Yes.

13 Q. You all would reduce prices?

14 A. I mean, it's quite possible. Wireless prices

15 traditionally go down --

16 Q. Is it possible or is it yes? You're hedging

17 on me here.

18 A. Well, in some areas. It's -- that's --

19 wireless prices continually go down and we traditionally --

20 you know, more minutes, less price. So I would say, yes,

21 that would be accurate.

22 Q. But there's no guarantee that prices will go

23 down. Correct?

24 A. There's no guarantee, yes, sir.

25 Q. Okay. We don't have any abilities to restrict

1 or provide any guidance on the charges that you do assess  
2 against customers or we don't regulate any type of products  
3 that you all offer, do we?

4 A. That's correct.

5 Q. Okay. Do you all have an obligation to serve  
6 every customer that comes in the door?

7 A. We do not have an obligation at this point.  
8 We do pride ourselves that we have the most extensive  
9 network in the seven-county area.

10 COMMISSIONER CLAYTON: Okay. Considering  
11 we've got other witnesses, I'll let you go from my  
12 standpoint. Thank you.

13 THE WITNESS: Thank you, sir.

14 JUDGE DIPPELL: Thank you.

15 Did you have additional questions, Chairman  
16 Gaw?

17 CHAIR GAW: Yeah. Thank you. Just a few.

18 QUESTIONS BY CHAIR GAW:

19 Q. How many cell providers are there in this  
20 territory that you're in?

21 A. We have -- it's six providers basically --

22 Q. Who are they?

23 A. -- in the service area.

24 That would be Sprint, Nextel, Cingular,  
25 TMobile and ourselves. Is that six? Or is that five?

1       That's five. I apologize.

2               Q.       I think it's five.

3               A.       I apologize, Commissioner. Those are the

4       five.

5               Q.       That's all right. And of those wireless

6       carriers, how many of those carriers offer local access to

7       their wireless line from a wireline carrier or exchange in

8       that area?

9               A.       None to my knowledge at this point. I may

10      have misunderstood the question, Commissioner. I apologize.

11              Q.       Well, if I were on a wireline phone --

12              A.       Yes.

13              Q.       -- anywhere in this area, could I dial any of

14      these wireless carriers and not pay a toll call?

15              A.       It would depend on your prefix or MPA.

16              Q.       So there are areas where it's a local call?

17              A.       Yes, sir.

18              Q.       For all of those carriers, do all of them have

19      some local access in that area?

20              A.       Some are limited, more limited than others. I

21      would say from a perspective of Cingular and ourselves would

22      have the most.

23              Q.       Okay. Where is your company not -- where does

24      your company require long-distance call -- what exchanges in

25      that area, do you know?

1           A.       Not off the top.

2           Q.       Some of them?

3           A.       I mean, some of them, right.

4           Q.       All right. Do you have any -- are there any

5 maps that you have introduced or that you intend to

6 introduce that show where the dead spaces are in this area

7 for your company?

8           A.       We do not have any maps to show that. We have

9 27 cell sites covering the entire seven-county area with the

10 most thorough coverage we feel.

11                    But, you know, from a lifeline standpoint too,

12 if I might elaborate, we're -- you know, there are ways to

13 enhance the service at the home if we are in a position. So

14 from that standpoint, we certainly feel like we could cover

15 everyone with -- with, you know, possibility -- you know,

16 with -- you know, a fixed antenna on the home or something.

17 We feel like we could service everyone in the entire area.

18           Q.       Are you telling me that I would be able to get

19 access inside of my house in any house in this area and that

20 you are going to provide that access?

21           A.       If necessary, we would.

22           Q.       If you get this designation, are you going to

23 provide that access?

24           A.       Yes.

25           Q.       How soon?



1           A.       The -- it's something we could do on an  
2       as-needed basis as the customers -- as it's required to  
3       provide that enhanced service.

4           Q.       All right. Let's just say that you got this  
5       designation and a customer is in -- lives in a house and  
6       cannot get consistent reception on a cell phone --

7           A.       Yes.

8           Q.       -- using your service.

9           A.       Right.

10          Q.       What's going to happen if they want to get  
11       lifeline? What's going to happen --

12          A.       If they --

13          Q.       -- in regard to your action by your company,  
14       if you get this designation?

15          A.       Yes. Basically we would evaluate -- you know,  
16       go out to the customer's home, if they were not able to --  
17       to adequately pick up signal to place and make and receive  
18       phone calls. Evaluate what the situation is and at that  
19       point use resources such as a yagi antenna or, you know,  
20       antenna that amplifies the signal for the customer to  
21       receive service in those isolated circumstances.

22          Q.       And who pays for that?

23          A.       That would be something that we would be  
24       responsible for providing the service.

25          Q.       You'd provide the yagi antenna on the house?

1           A.       Correct.  Yes, sir.

2           Q.       And it would not be a customer charge?

3           A.       You know, if they were unable to get service,  
4       no.

5           Q.       So are you representing to the Commission that  
6       if you get this funding, that every household in this area  
7       will have consistent, good access to the telephone system  
8       through a cell phone in that house?

9           A.       To -- you know, with the network in place, to  
10       the best of our ability we would provide that.  And if we  
11       cannot --

12          Q.       That's not what I'm asking.  I'm asking  
13       whether you're going to certify to this Commission --

14          A.       Yes, sir.

15          Q.       -- that if you get this designation, you will  
16       provide every household with consistent, adequate, good  
17       service to the telephone system from a cell phone inside of  
18       that house?

19          A.       Yes, sir.

20          Q.       And how soon will you be able to do that?

21          A.       Within one year.

22          Q.       Now, if this Commission were to give you this  
23       designation, what avenue would we have to ensure that you  
24       carried forward and did what you're telling me you're doing?  
25       What would we have as an ability to ensure that that would

1 occur?

2 A. I think there's ways, Commissioner, that we  
3 can monitor these situations. Customer feedback that we  
4 receive, you know, are we meeting their expectations.

5 Q. Well, I would -- I understand what you're  
6 saying, but that's not my question. My question is, this  
7 Commission -- and let me say this. This Commission  
8 evidently does not have much authority or any authority to  
9 speak of over your company.

10 MR. DEFORD: Your Honor --

11 BY CHAIR GAW:

12 Q. If you make this promise, what do we have to  
13 ensure that if this designation is granted, that you carry  
14 forth and do what you're telling me you're willing to do?

15 MR. DEFORD: Your Honor, if I might, I believe  
16 Mr. Kurtis is prepared to address that. There was a very  
17 recent decision I think that Mr. England addressed in his  
18 opening from the FCC last Friday that actually addresses  
19 exactly that issue that Mr. Kurtis I think is prepared to  
20 address.

21 CHAIR GAW: That's fine. If he knows though,  
22 I'd like for him to answer. If he doesn't, it's okay.

23 THE WITNESS: No. Being familiar with the  
24 order that -- that Mr. DeFord is speaking of, Commissioner,  
25 I know that there are some -- some -- some reporting, you

1 know, stipulations with the order that we would be  
2 responsible to provide that information to the Commission.

3 CHAIR GAW: Okay. I'm going to follow up.  
4 I'll follow up then later. That's all I have right now.  
5 Thank you.

6 JUDGE DIPPELL: Okay. It's time for us to  
7 take a break, and we're going to break until 10:30 by the  
8 clock at the back of the room. That's about 13 minutes, so  
9 we can go off the record.

10 (A recess was taken.)

11 JUDGE DIPPELL: Mr. Dawson's back on the stand  
12 and we finished with Commission questions, so I'll ask if  
13 there is any further cross-examination based on the  
14 Commission questions from Office of Public Counsel?

15 MR. DANDINO: Yes, your Honor. Thank you.

16 FURTHER CROSS-EXAMINATION BY MR. DANDINO:

17 Q. Good morning, Mr. Dawson.

18 A. Good morning.

19 Q. Commissioner Gaw was asking you about the  
20 limitations of the Public Service Commission to regulate  
21 you, your company. And I know that another witness is going  
22 to address that -- or the recent case, but from your  
23 perspective, would you be willing or do you even think it  
24 would be possible for your company to agree to conditions  
25 with this ETC application that your company would abide by

1 certain service quality standards that the Commission  
2 currently has?

3 A. Yes. I think that's possible.

4 Q. And you'd be willing to do that?

5 A. Yes.

6 Q. Now, I'm trying to understand what  
7 Commissioner Murray was discussing with you. If you  
8 currently have a customer on your basic -- is it your basic  
9 service?

10 A. Basic service, right.

11 Q. Your basic service. Now, if that customer  
12 would be transitioned to lifeline --

13 A. Yes.

14 Q. -- would they have a smaller local calling  
15 area than they do under your present basic plan?

16 A. Specifically the low-end plan that we  
17 discussed --

18 Q. Yes.

19 A. -- I mean, the very base plan. I mean, of  
20 course, all of our plans would be eligible for the discount,  
21 but, you know, specific to the low-end plan to -- you know,  
22 to lifeline discount on all plans, but to the lower end plan  
23 would reduce the scope.

24 We do have some -- we do have an offer of -- a  
25 seven-county offer, a local currently at 19.95 and we're

1 discussing a \$10 rate plan that would include the \$10 scope,  
2 so it wouldn't be just limited to the small. I was focused  
3 on the smaller -- the smaller -- the entry level base plan  
4 for lifeline customer.

5 Q. Now, you're saying that the lifeline -- that  
6 could apply to any of your service plans?

7 A. Correct. Right.

8 Q. Okay. So if you have the service plan and a  
9 person's paying for unlimited calling, nationwide long  
10 distance -- do you have something like that?

11 A. Yes, we do.

12 Q. If they get the lifeline plan and they get the  
13 reduction in it, they'll no longer have -- all their toll  
14 will be blocked?

15 A. No. Actually, they would get the same  
16 advantages on that particular plan if they -- you could  
17 subscribe to any one of our plans and it would be eligible  
18 for the discount -- for the lifeline discount.

19 The only -- the only plan that we had was the  
20 very base plan that I was discussing, which was the \$6 --  
21 \$6.25 plan that was limited on its toll, what it could do.  
22 But, you know, any of the plans will be eligible for the  
23 discount, our current rate plans included.

24 Q. So a customer could select a lifeline plan  
25 which would not have toll restriction. Is that what you're

1       telling me?

2           A.       Yes, they could.   Yes.

3           Q.       This lifeline, is link-up part of that or is

4       that? --

5           A.       Yes, sir, it is.   Yes.

6           Q.       And what is the link-up, for the record?

7           A.       The link-up is the activation fee that's

8       involved when the customer activates service.

9           Q.       Now, does the customer not only have to get

10       the link-up discount, but do they also have to otherwise

11       qualify for service --

12          A.       Yes.

13          Q.       -- with credit checks or something like that?

14          A.       Right.   Well, there are -- there are

15       qualifiers that we testify -- or show in our testimony as

16       far as income level to qualify for lifeline service.   And

17       then from a link-up perspective, it's similar requirements

18       to qualify for link-up, which is the one-time activation fee

19       essentially for the service.

20          Q.       We were talking about enhanced services.

21          A.       Yes, sir.

22          Q.       Could you describe what those enhanced

23       services you were contemplating?

24          A.       I believe Mr. Kurtis is going to go into much

25       more detail, you know --

1 Q. Well, just --

2 A. -- on the enhanced services.

3 Q. -- just basically.

4 A. Basically, higher speed data, transmission,  
5 enhanced 911 services, which can be location specific, TCY,  
6 some compliance advantages. But mainly the data, picture  
7 phone, having the ability to have the same technology as --  
8 as metropolitan areas offer today.

9 Q. And those services would be available to all  
10 your cell customers, not just the lifeline customers?

11 A. Not just the lifeline; to all customers, yes,  
12 sir.

13 Q. That's whether or not you get the ETC  
14 designation?

15 A. The -- you know, certainly strategy, timing,  
16 some things could change with or without ETC designation.

17 Q. What would be the driving force, if you did  
18 not get the ETC designation, for providing enhanced  
19 services?

20 A. Certainly the -- you know, the expense  
21 involved in this environment, you know, to deploy these  
22 technologies faster to the marketplace, to get them to the  
23 market. It would help with that certainly. And, you know,  
24 have the ability to provide the other services like lifeline  
25 and being able to port.



1                   MR. DANDINO: That's all I have, your Honor.  
2           Thank you.  
3                   JUDGE DIPPELL: Thank you. Is there any  
4           further cross-examination from Staff?  
5                   MR. POSTON: Yes, thank you.  
6           FURTHER CROSS-EXAMINATION BY MR. POSTON:  
7           Q.       I'd like to touch upon the commitments that  
8           Mid-Missouri Cellular is making regarding your service --  
9           A.       Yes.  
10          Q.       -- some responses to questions from  
11          Commissioner Gaw -- or Chair Gaw.  
12                   You talked about quality of service standards.  
13          And Mr. Dandino had asked you the question, you said that  
14          you would commit to this Commission's quality of service  
15          standards. Are you saying that -- well, what quality of  
16          service standards are you saying you would commit to?  
17          A.       I think specifically they would have to be  
18          defined and we would determine what those would be, you  
19          know, in -- in talks. Some of the things that -- that  
20          Mr. Kurtis will speak to with the FCC, there were some  
21          things in the order on Friday that -- that I think we could  
22          agree to -- to a certain level that's agreeable to both --  
23          both parties.  
24          Q.       And did I hear you testify that within one  
25          year that Mid-Missouri Cellular would be able to serve all

1 customers within your service area; is that correct?

2 A. Well, I think they -- you know, including, you  
3 know, enhancements that we can do, you know, at the home to  
4 that -- to the extent that they can -- they can receive  
5 service, yes. You know, as far as having, you know,  
6 handheld coverage in every home and guaranteeing that, that  
7 would be -- that would be difficult to say in one year. But  
8 certainly with some of the technology that's out there and  
9 what we can do to amplify the signal and make sure that they  
10 can use it in the home, yes.

11 Q. And did you say that you would offer this  
12 equipment to extend the signal at no charge to the customer?

13 A. Correct. If there's an antenna or fixed  
14 antenna required, you know, to receive the service, yes.

15 Q. Okay. Even if it was a single customer that  
16 was in perhaps in a dead spot? I mean --

17 A. Yes.

18 Q. Okay.

19 A. Yes, sir.

20 Q. And Commissioner Murray asked you questions  
21 about the cost of lifeline service. And what would it cost  
22 a lifeline customer to initiate service, including like a  
23 start-up cost and the cost of the handset?

24 A. Uh-huh. The handset itself varies. There are  
25 different levels of handsets as far as features, functions

1       that each of them have. What we had proposed was basically  
2       a cost -- at a cost figure, our cost to the consumer for the  
3       handset -- to the potential customer. And then our link-up  
4       service that was proposed was an activation fee no more than  
5       \$30, which was a \$20 discount from our one-year activation  
6       service.

7               Q.       So for a lifeline customer, what would they  
8       expect to pay in dollar amount to start up?

9               A.       Typical on the handsets vary from -- you know,  
10       vary from \$45 to \$199 depending on the features and  
11       functions that the customer chose, so it would vary. But if  
12       it was -- let's say it was a \$30 activation fee and, you  
13       know, a very -- you know, the basic phone, you know, in the  
14       75 to 100 dollar range.

15              Q.       And Commissioner Murray asked you questions  
16       about enhancement of Mid-Missouri Cellular's network.

17              A.       Uh-huh.

18              Q.       And Mid-Missouri Cellular is over-building  
19       their network from the TDMA to the CDMA technology; is that  
20       correct?

21              A.       Correct. Correct.

22              Q.       And is Mid-Missouri Cellular going to move  
23       from TDMA to CDMA throughout their entire network regardless  
24       of ETC status?

25              A.       Yes. Well, when we do the CDMA, we'll do the

1 entire market. You know, again some of it depends on -- to  
2 answer -- at the end you had said regardless of the ETC  
3 status. I mean, some of our planning and speed depends on  
4 that.

5 Q. But ultimately you're moving to a CDMA  
6 throughout your entire network whether you get ETC or not.  
7 Correct?

8 A. That's the discussion, correct.

9 Q. That's the discussion or --

10 A. That's what we're discussing, correct.

11 Q. Is that what Mid-Missouri Cellular is going to  
12 do? I mean, are you going to move to --

13 A. We haven't started the process actually, but  
14 that is the discussion, that platform and that protocol.

15 Q. You haven't expended any amounts on the CDMA  
16 technology yet?

17 A. That's correct. We're in the planning phases.

18 MR. POSTON: That's all I have. Thank you.

19 JUDGE DIPPELL: Is there further  
20 cross-examination from Alma?

21 MR. ENGLAND: Yes, your Honor.

22 FURTHER CROSS-EXAMINATION BY MR. ENGLAND:

23 Q. Mr. Dawson, I'll try to work backward with  
24 some of the more recent questions that I have further  
25 inquiry on. Regarding the CDMA technology, as you move to

1       that, is it correct that your customers will have to change  
2       their handsets as well?

3             A.       That is correct. It is a different handset.

4             Q.       With regard to the commitment regarding  
5       quality of service, I think you indicated that you would be  
6       willing to talk with the Commission about certain service  
7       quality standards you would be willing to commit to; is that  
8       right?

9             A.       Right. And --

10            Q.       You're not --

11            A.       In general.

12            Q.       You're not prepared to commit to meeting all  
13       of the service quality standards that ILECs are currently  
14       subject to, are you, sir?

15            A.       I -- I'm not in the position to -- to say.

16            Q.       Would it be fair to say that you're more  
17       likely to commit to some, but not all of those standards?

18                   MR. DEFORD: Objection. I think the witness  
19       has testified that he isn't in a position to testify to that  
20       commitment.

21                   MR. ENGLAND: Well, he's made several  
22       statements regarding commitments or quasi-commitments. I  
23       think he can answer the question.

24                   JUDGE DIPPELL: I think I want to get a  
25       clarification on your answer to the last question. You're

1 not in a position to say. Does that mean you don't know?

2 THE WITNESS: I don't know, right, what it

3 would be -- specifically, you know, what those guidelines

4 would be. I mean, Mr. Kurtis certainly could address that,

5 I'm quite certain.

6 JUDGE DIPPELL: And, Mr. England, would you

7 ask your question again?

8 BY MR. ENGLAND:

9 Q. I think my question was something along the

10 lines would it be fair to say you're willing to commit to

11 some but not necessarily all of the service quality

12 standards that ILECs are subject to?

13 A. And I think that's, you know, something that

14 Mr. Kurtis could handle better certainly than -- you know,

15 he's more familiar with as our regulatory counsel.

16 JUDGE DIPPELL: I'm going to go ahead and

17 sustain the objection. I believe the witness doesn't know

18 what commitments --

19 BY MR. ENGLAND:

20 Q. Okay. Let's talk a little bit about lifeline.

21 First of all, it's my understanding that customers have to

22 qualify for lifeline and there are certain income

23 eligibility requirements and maybe disability requirements.

24 Is that your understanding as well?

25 A. Yes, sir, correct.

1           Q.       And there's also a limit on how much money you  
2       are to get for those lifeline customers from the USF.  
3       Correct?  
4           A.       That's my understanding.  
5           Q.       And you mentioned that the lifeline discount  
6       could apply to any plan that you offer?  
7           A.       Yes, sir.  
8           Q.       Are you saying that customers who currently  
9       apply to some of your plans that cost in upwards of 20, 30  
10      40, 50 dollars a month are going to qualify and seek  
11      lifeline assistance for those plans?  
12          A.       If they qualify, they certainly would be  
13      eligible to receive that.  
14          Q.       And the discount would be, what, \$1.75 a  
15      month?  
16          A.       That's correct.  
17          Q.       With respect to the number of competitors you  
18      currently have in your market, are you familiar with  
19      Mr. Schoonmaker's Surrebuttal Testimony?  
20          A.       Yes, I am. I did read it, sir.  
21          Q.       Do you have a copy of it there in front of  
22      you?  
23          A.       I do not have it in front of me.  
24                   MR. ENGLAND: May I approach the witness?  
25                   JUDGE DIPPELL: Yes.

1 THE WITNESS: Thank you, sir.

2 BY MR. ENGLAND:

3 Q. Let the record reflect the fact that I've  
4 handed him a copy of Mr. Schoonmaker's testimony. And now I  
5 can't remember what page it is, but I've turned it --

6 A. Page 21, sir.

7 Q. Thank you.

8 And Mr. Schoonmaker there testifies to the  
9 number of carriers -- excuse me, wireless carriers providing  
10 service, at least in the Alma and Citizens areas. And he  
11 enumerates or lists six companies. Do you see that?

12 A. Yes. I sure do.

13 Q. Do you have any reason to believe that that's  
14 not true or inaccurate?

15 A. No. I believe I left AT&T Wireless out of  
16 my -- of my testimony.

17 Q. Okay.

18 A. I apologize.

19 Q. Do you have any reason to believe that the  
20 number of plans that he shows there is inaccurate?

21 A. That's probably accurate.

22 MR. ENGLAND: Okay. Thank you, sir. I have  
23 no other questions.

24 JUDGE DIPPELL: Thank you. Is there any  
25 further cross-examination from CenturyTel?



1                   MR. STEWART: No questions, your Honor.

2                   JUDGE DIPPELL: Is there any redirect?

3                   MR. DEFORD: Yes, your Honor.

4                   REDIRECT EXAMINATION BY MR. DEFORD:

5                   Q.       Mr. Dawson, I think there may be some

6                   confusion about what Mid-Missouri plans to do for its

7                   lifeline offering. I think your testimony was directed to

8                   the probably most basic comparable offering to the local

9                   exchange company, is that correct, the \$6.50 offering?

10                  A.       Yes. Correct.

11                  Q.       Now, would there be other lifeline services

12                  that Mid-Missouri would offer that, for example, would cover

13                  the entire seven-county area for calling --

14                  A.       Yes.

15                  Q.       -- local calling?

16                  A.       Yes.

17                  Q.       Do you have any idea what that offering would

18                  be?

19                  A.       In the -- in the -- the discussion has been

20                  and the talk is an offer of a \$10 rate plan, in the \$10

21                  range, offering the seven-county area, including the calling

22                  scope to all exchanges in the seven-county area.

23                  Q.       So there wouldn't be just one lifeline

24                  offering?

25                  A.       Correct.

1           Q.       With respect to the other six carriers, the  
2       national carriers that compete with Mid-Missouri Cellular --  
3           A.       Yes.  
4           Q.       -- would it be fair to say that they have  
5       built out as extensively and that their coverage is as  
6       complete as Mid-Missouri's?  
7           A.       No.   Absolutely not.   Absolutely not.  
8           Q.       They build out along highways?  
9           A.       Along main roads, highways.   Sprint, Nextel,  
10       TMobile have limited coverage in the area.   Mainly the main  
11       thoroughfares not reaching out to all of -- including AT&T  
12       Wireless, to all of the service areas that we do with our  
13       established network.  
14          Q.       And I believe a long time ago, literally this  
15       morning Mr. England, may have asked you a question about the  
16       number of requests that the company has received concerning  
17       local number portability.  
18          A.       Yes.  
19          Q.       Does it surprise you that the number is so low  
20       that local number portability is maybe in its infancy at  
21       this time?  
22          A.       I think so.   And, you know, probably the fact  
23       that, you know, most people are informed if they're  
24       switching, whether or not we port, you know, prior to them  
25       coming and asking us.

1           Q.     And you would expect that number to increase  
2     over time?

3           A.     Sure.  Yes.

4           MR. DEFORD:  I think that's all I have.  Thank  
5     you.

6           JUDGE DIPPELL:  Thank you.

7     QUESTIONS BY JUDGE DIPPELL:

8           Q.     Mr. Dawson, I have one more question I should  
9     have asked you earlier.  Just so that I'm clear, is the  
10    enhanced 911 technology, is that available under your  
11    current platform or is that something that's only available  
12    if you go to the next level?

13          A.     Mr. Kurtis can expand on that, your Honor, but  
14    it is available with an upgrade.  There would be an upgrade  
15    involved to provide that service on our current platform.

16          Q.     An upgrade of?

17          A.     An upgrade of our tech-- an upgrade of the  
18    software and different things that he could probably expand  
19    on.

20          Q.     Okay.  I'll let him explain that.  Thank you.

21          A.     But it is available.  Thank you.

22          JUDGE DIPPELL:  Thank you.

23                 All right then.  I believe that's all the  
24    questions for you, Mr. Dawson.  Thank you very much.  You  
25    may be excused.

1                   MR. DEFORD: Call Mr. Jones.  
2                   (Witness sworn.)  
3                   JUDGE DIPPELL: Thank you.  
4       DAVID JONES testified as follows:  
5       DIRECT EXAMINATION BY MR. DEFORD:  
6           Q.       Would you state your name and business address  
7       for the record, please?  
8           A.       David L. Jones, 3850 FM 2648, Powderly, Texas  
9       75473.  
10          Q.       And by whom are you employed and in what  
11       capacity?  
12          A.       I'm employed by Air Direct as manager.  
13          Q.       And what is your relationship to the applicant  
14       in this proceeding?  
15          A.       My relationship is currently as the director.  
16       Previously I was the president and manager.  
17          Q.       Did you cause to be prepared Amended  
18       Surrebuttal Testimony that's been marked for purposes of  
19       identification in this proceeding as Exhibit 3?  
20          A.       Surrebuttal Testimony, correct.  
21          Q.       And if I were to ask you the questions that  
22       were set forth therein, would your answers be substantially  
23       the same today?  
24          A.       Yes, they would.  
25          Q.       And would those answers be true and correct to

1 the best of your information and belief?

2 A. They would.

3 MR. DEFORD: I'd offer Exhibit 3 and tender  
4 the witness for cross.

5 JUDGE DIPPELL: Thank you. Are there any  
6 objections to Exhibit 3?

7 Then it will be received into the record.  
8 (Exhibit No. 3 was received into evidence.)

9 JUDGE DIPPELL: Cross-examination by Public  
10 Counsel?

11 MR. DANDINO: I have no questions for  
12 Mr. Jones. Thank you.

13 JUDGE DIPPELL: Staff?

14 MR. POSTON: Yes, thank you.

15 CROSS-EXAMINATION BY MR. POSTON:

16 Q. Good morning, Mr. Jones.

17 A. Good morning.

18 Q. In your Surrebuttal Testimony you claim that  
19 the granting of ETC status is in the public interest because  
20 Mid-Missouri Cellular could assist the ILECs in fulfilling  
21 their carrier of last resort commitments; is that correct?

22 A. That's correct.

23 Q. And you cite to an example where Mid-Missouri  
24 Telephone Company, the ILEC, satisfied its carrier of last  
25 resort obligation by purchasing fixed wireless service from

1 Mid-Missouri Cellular. Correct?

2 A. Yes, I do.

3 Q. Has Mid-Missouri Cellular located any other  
4 documents or other evidence to support that example that you  
5 gave in your testimony?

6 A. There was a letter that came from the  
7 Commission Staff to me at that time when I was serving as  
8 executive vice president of Mid-Missouri Telephone Company.  
9 We've tried diligently to try and locate that letter and  
10 have not been able to find it at this point. The records  
11 from that time period were no longer retained by  
12 Mid-Missouri Telephone, so we were unable to come up with  
13 that.

14 Q. Assuming that your example is correct, how  
15 exactly does this relate to Mid-Missouri Cellular's  
16 application for ETC designation?

17 A. Well, I believe that allowing wireless  
18 carriers to supplement the landline entities in providing  
19 carrier of last resort responsibility can reduce the overall  
20 cost of universal service.

21 In the -- in the example that I state,  
22 Mid-Missouri Telephone Company had a customer that was  
23 located in a very remote area, it was an area that it would  
24 cost tens of thousands of dollars to build wireline  
25 facilities to that customer, not to mention the delay in

1 getting service to the customer.

2 I approached the Public Service Commission  
3 Staff at that time to see if I could offer the customer  
4 wireless in lieu of landline service, thereby reducing the  
5 amount of cost incurred by the telephone company. In turn,  
6 I charged the customer normal ILEC rates.

7 And for Mid-Missouri Cellular, it was a fairly  
8 easy site to serve. We had to put some fixed antenna and  
9 fixed radio gear in to get the signal to the level that  
10 would work, but it -- it was a fraction of the cost of  
11 having the wireline entity deploy facilities to that  
12 location.

13 Q. Since Mid-Missouri Cellular was able to assist  
14 Mid-Missouri Telephone Company without ETC status, how will  
15 an ETC grant further this ability to assist the ILECs?  
16 What's going to change?

17 A. Well, the ETC grant in -- probably Mr. Kurtis  
18 would be better to address that, but granting ETC status to  
19 Mid-Missouri Cellular provides support to enable them to  
20 extend their network and enhance their network in the rural  
21 regions.

22 I think you heard Mr. Dawson say that most of  
23 our competitors have built out the interstate corridors, but  
24 they haven't pushed their network to all parts of the  
25 region. We are trying to push our network and push the

1       technology to the far corners of the region, serving all  
2       rural areas.

3                       And to do that, ETC status gives us support,  
4       much like it would an incumbent LEC, to serve those  
5       high-cost rural service areas. And we believe that using  
6       wireless technology, we can push the network to those  
7       regions at a much lower per customer cost than the ILEC  
8       community can, thereby being in the public interest to do  
9       that.

10                      MR. POSTON: That's all I have. Thank you.

11                      JUDGE DIPPELL: Thank you.

12                      Is this cross-examination by Alma?

13                      MR. ENGLAND: Yes, ma'am.

14       CROSS-EXAMINATION BY MR. ENGLAND:

15                      Q.       Good morning, Mr. Jones.

16                      A.       Good morning.

17                      Q.       Let me follow-up on that -- a few of those  
18       questions from Mr. Poston regarding the customers served by  
19       fixed wireless in the Mid-Missouri Telephone Company  
20       example.

21                      Do you know if that customer continues to  
22       receive wireless service today in lieu of landline service?

23                      A.       It's my understanding that today they have  
24       wireline service at that location.

25                      Q.       Okay. Are you aware of any examples involving



1 Alma or Citizens where they were unable to meet their  
2 carrier of last resort obligation and had to rely on  
3 Mid-Missouri Cellular to do so?

4 A. I don't have any specific knowledge, no.

5 Q. I want to pursue with you some questions that  
6 I'd asked Mr. Dawson regarding the corporate ownership. He  
7 thought you might be better equipped to answer those  
8 questions. You indicated in your Direct Testimony that you  
9 currently are director of Mid-Missouri Cellular. Correct?

10 A. That is correct; Cellular, Inc.

11 Q. Okay. Which is different than the applicant?

12 A. No. That is the applicant.

13 Q. I thought the applicant was a limited  
14 partnership.

15 A. Well, Mid-Missouri Cellular, Inc. is the  
16 general partner of the limited partnership.

17 Q. Okay. But there are two separate entities, as  
18 I understand?

19 A. Yes.

20 Q. Okay. And previously you were president; is  
21 that right?

22 A. That is correct.

23 Q. And I think in response to a question from  
24 Mr. Poston, you indicated formerly you were also executive  
25 vice president of Mid-Missouri Telephone Company?

1           A.       That is correct.

2           Q.       Okay.  And it's my understanding that you  
3           and/or your family were the owners of Mid-Missouri Telephone  
4           Company at one time?

5           A.       That is correct.

6           Q.       And as an owner, you were also affiliated with  
7           Mid-Missouri Telephone -- excuse me, Mid-Missouri Cellular  
8           at that time.  Correct?

9           A.       That's correct.

10          Q.       Okay.  How does Mid-Missouri Telephone today  
11          fit into this corporate structure with -- or how is it  
12          affiliated with, if you will, Mid-Missouri Cellular, Limited  
13          Partnership, and the Mid-Missouri Holdings that we talked  
14          about with Mr. Dawson?

15          A.       It's -- it's my recollection that Mid-Missouri  
16          Holding Company is the -- does control or owns 100 percent  
17          of the common stock of Mid-Missouri Telephone Company.

18          Q.       As well as owning either directly or  
19          indirectly all of the interest in Mid-Missouri Cellular?

20          A.       Correct.

21          Q.       Okay.  Now, do you retain -- do you or your  
22          family retain any ownership interest in any of those  
23          entities?

24          A.       Yes, I do.

25          Q.       Okay.  Would you agree with me then that to

1       the extent Mid-Missouri Cellular is able to increase its  
2       profitability as a result of obtaining ETC status and  
3       receipt of USF support, that that will enure either directly  
4       or indirectly to your financial benefit?

5             A.       It could, yes.

6             Q.       Would you also agree that to the extent MMC  
7       achieves ETC status and receipt of USF support, thus,  
8       increasing its profitability, that that will also increase  
9       its value to potential buyers?

10            A.       Well, I take objection to the statement  
11       increasing its profitability. I think the desire and intent  
12       would be, if we get ETC status, to re-invest that money in  
13       deploying the network. I don't know that that would have  
14       anything to do with profitability.

15            Q.       Okay. Well, it's a hypothetical. Let's  
16       assume that the receipt of USF funds increase the  
17       profitability of MMC, the cellular company. Would you --

18            A.       Okay. I'll assume that.

19            Q.       Would you agree with me that that will  
20       increase its value to potential buyers?

21            A.       You know, valuation of a company is -- is  
22       dependent on many, many factors of which profitability is  
23       one of. Without seeing all the other elements, I couldn't  
24       say that it would increase the value.

25                    Value is largely predicated on -- on revenues

1       and other factors, customers, average number of customers,  
2       average revenue per customer, etc., etc. So to isolate that  
3       and take it as an isolated item to say it would increase  
4       value, I can't necessarily agree with that.

5               Q.       Well, as I understand it, if you get ETC  
6       status and thereby receive USF support, clearly you're going  
7       to increase revenues, right, over present day revenues?

8               A.       I'm not -- I'm not sure that that's a true  
9       statement, because I've heard testimony by Mr. Dawson that  
10       we'd be reducing rates commensurate with ETC status as well  
11       and coming up with new rate plans. So to say that -- to  
12       make the blanket statement that ETC status is going to  
13       increase revenues, I don't know that I would agree.

14              Q.       Would you agree with me that it's likely it  
15       will increase revenues?

16              A.       It's certainly possible.

17              Q.       And it's likely it will increase profitability  
18       to some degree?

19              A.       It's certainly possible.

20              Q.       And it's likely that you may add new  
21       customers. In fact, that's why you're seeking ETC status to  
22       extend or push your system out to the far reaches of your  
23       service area. Right?

24              A.       That's correct.

25              Q.       And all of those factors go into buyer's

1 decisions in assessing the value of a potential acquisition.  
2 Correct?  
3 A. I'm sure they do.  
4 Q. So wouldn't it generally follow that if you  
5 obtain ETC status, receive USF funds, that it's going to  
6 make the company more attractive and more valuable to a  
7 potential buyer?  
8 A. I think that's a conclusion that I can't  
9 necessarily reach at this point.  
10 Q. Okay. As director of the company and a  
11 financial owner of the company or companies related to this  
12 company, do you have any plans to sell Mid-Missouri  
13 Cellular, or know of any?  
14 A. I'm not -- I don't have specific --  
15 MR. DEFORD: Your Honor, I would object. I  
16 think at a minimum it would call for highly confidential  
17 information to be disclosed.  
18 MR. ENGLAND: Fair enough.  
19 MR. DEFORD: I'm not even sure that this  
20 witness is appropriate to address that question.  
21 MR. ENGLAND: Well, I'll respect the  
22 confidentiality of the response and have no problem going  
23 in-camera, but I think this witness, as a shareowner and  
24 stockholder in these entities or related entities and his  
25 position on the board, certainly qualifies him to answer

1       that question.

2                       JUDGE DIPPELL:  Do you want to go in-camera?

3       I'll overrule the objection.

4                       MR. ENGLAND:  We ought to do that.  Frankly,

5       it's my last question so maybe now is as appropriate time as

6       any to do that.

7                       JUDGE DIPPELL:  Okay.  Is there anyone in the

8       room that wouldn't be available if we go in-camera?

9                       MR. ENGLAND:  Just a minute.

10                      I think we're okay now.  But I'll wait for

11       Mr. DeFord.

12                      (At this time, an in-camera session was held,

13       which is contained in Volume 3, pages 106 through 107 of the

14       transcript.)

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1                   MR. ENGLAND: And that concludes my  
2 cross-examination. Thank you.

3                   JUDGE DIPPELL: Okay. Is there  
4 cross-examination by CenturyTel?

5 CROSS-EXAMINATION BY MR. STEWART:

6           Q.       Morning, Mr. Jones.

7           A.       Good morning.

8           Q.       Actually, I wasn't going to ask you any  
9 questions, but Staff's questions raised one. Referring to  
10 page 2, line 13 through 15 of your Surrebuttal Testimony,  
11 where you're talking about how wireless customers can assist  
12 the ILEC in certain circumstances. And that's a reference  
13 to a specific instance that Mid-Missouri Cellular assisted  
14 Mid-Missouri Telephone; is that correct? That's --

15          A.       Yeah. That's correct. I think when you look  
16 at the recent history, there's been other cases where  
17 wireless carriers were able to deliver service in unusual  
18 circumstances that provided a huge public interest benefit  
19 and actually reduced the cost for the wireline community.

20                   One example that comes to my mind was in '93  
21 we had massive flooding and I know there was a lot of area  
22 that was -- where the wireline facilities were washed out by  
23 floods or destroyed by floodwaters and customers were issued  
24 wireless phones as an alternative to wireline phones. And I  
25 think -- I think that's just one of many things you can use

1 to demonstrate that it is in the public interest.

2 Q. Well, I remember the flood of '93 very well.  
3 And was that again a transaction or a relationship between  
4 Mid-Missouri Telephone and Mid-Missouri Cellular that you  
5 just --

6 A. I think -- no, in '93 that was much -- that  
7 was far beyond the limited scope of Mid-Missouri Telephone  
8 and Mid-Missouri Cellular. I think all wireless companies  
9 and ILECs that served along the Missouri River probably  
10 utilized wireless until facilities could be redeployed to  
11 provide wireline service.

12 Q. Barring a 500-year flood, how does  
13 Mid-Missouri Cellular assist in fulfilling its commitments  
14 as a carrier of last resort?

15 A. Certainly. I think -- I think because of the  
16 benefits that wireless carriers can offer in terms of  
17 mobility, location, identifiable E-911, meaning if they're  
18 out on a tractor and get hurt, why the customer's location  
19 is transmitted to the public safety answering point.

20 Those types of things are going to drive  
21 customers to use wireless in lieu of wireline. In some  
22 cases, the more remote rural areas as customers choose  
23 wireless, it takes the burden off of the ILEC community or  
24 the wire-- wireline community to have to upgrade and extend  
25 their facilities in areas where it's not economically

1       viable, where the cost to extend those facilities far  
2       exceeds the revenues produced.

3               Q.       Are you aware of any area in any Spectra  
4       exchange where a customer is not being served by Spectra  
5       Communication that is asking for service?

6               A.       No, I'm not.

7               Q.       Okay.

8                       JUDGE DIPPELL:  Are there questions from the  
9       Bench for this witness?  Chairman Gaw?

10                      CHAIR GAW:  Thank you.

11       QUESTIONS BY CHAIR GAW:

12               Q.       The earlier witness made representations as to  
13       what Mid-Missouri Cellular was willing to do in ensuring  
14       that every household in the area within the yellow on the  
15       map we've been looking at would have good quality access to  
16       the telephone -- to telephone service through your network.

17               A.       Yes.

18               Q.       I want you to tell me what your understanding  
19       is of that and whether you agree with what he said.

20               A.       It's my understanding that Mid-Missouri  
21       Cellular's willing to make the commitment if there's areas  
22       where the signal's not strong enough, they're willing to  
23       enhance that signal via whatever technological means are  
24       available such that that customer can have good solid  
25       wireless signal in their home.

1                   I think what Mr. Dawson said was if they  
2           wanted to use a handheld and be away from the home, that may  
3           not be part of the package, but certainly we would do  
4           whatever it took to get signal to them if they wanted to be  
5           able to use it in their home.

6                   Typically what's done, as he mentioned, a yagi  
7           type antenna -- you put a yagi antenna up and make it highly  
8           directional so that you can pull that signal in at a level  
9           that allows the phone to work with good quality.

10           Q.       Is that done today by the company?

11           A.       We have done it -- I think the example in my  
12           testimony for Jeff and Michelle Nebergal, that is the  
13           technology we deployed there because short of that, there  
14           wasn't adequate service there to provide signal.

15           Q.       That was one example that occurred somewhere  
16           around 10 years ago. Is that the only example that you've  
17           got?

18           A.       No. The reason I used this example is because  
19           it was the only example that I have where the Commission  
20           actually intervened and approved the process.

21           Q.       And that was because -- that was because of  
22           the regulation of Mid-Missouri Telephone Company?

23           A.       Correct. That is correct. We didn't feel  
24           like we had the authority to use wireless without some sort  
25           of active involvement by the Commission.

1           Q.       All right. Today if I am a -- if I live  
2       within the yellow region and I call the company up and say,  
3       you know, I can't get service from inside my home using my  
4       wireless telephone, I want to have service inside my home,  
5       and they're a customer of yours obviously, what will you do  
6       if they ask for service that they can receive in their home?  
7       What does the company do?

8           A.       And let me clarify. I'll be responding to  
9       that based on my experience when I was president of  
10      Mid-Missouri Cellular and overseeing the day-to-day  
11      operations.

12                   What we would do in that case was look at  
13      where the customer's located, try and determine why they  
14      weren't getting signal. Typically we would buy additional  
15      equipment and install at the customer's premise to enhance  
16      the signal, but we'd put them on a list of customers living  
17      in an area where we need to enhance their signal.

18                   And as we had the revenues and resources  
19      available to grow our footprint and add more cell sites, we  
20      would take that into consideration, where is the demand the  
21      strongest. Use it as a planning tool to know where to  
22      deploy our enhancements and additional cell sites.

23                   Typically if the customer wanted to spend the  
24      money to buy the enhancement equipment, we would assist the  
25      customer in getting that installed, but typically that --

1       the cost of that equipment was up to the customer.

2               Q.       Okay.  So today you would not -- you would not

3       do what the earlier witness said the company would be

4       willing to do if they received the Universal Service Fund

5       funds?

6               A.       That's my understanding.

7               Q.       Okay.  And is there anything that you're aware

8       of that this Commission can do once the access to the USF is

9       granted to ensure that commitments by the company actually

10      occur?

11              A.       Yes.  And I think Mr. Kurtis is the

12      appropriate witness to talk with about that as he's much

13      more familiar with that.  But it's my understanding that a

14      ruling by the FCC as recent as last Friday does give the

15      Commission specific things that they can do, including the

16      ability to revoke ETC status.

17              Those -- and I think Mr. Kurtis is probably

18      the best one to provide that information to you, but I know

19      there are specific things that you can do to ensure that

20      commitments that were made are kept.

21              Q.       And that is a decision that was recently

22      rendered by the FCC?

23              A.       By the FCC in a case just like this.

24              Q.       Is it final?

25              A.       I think Mr. Kurtis would be the one to address

1       that. I'm not specifically familiar with the legal -- I'm  
2       not an attorney, so I don't know when you ask if it's final,  
3       I couldn't tell you.

4             Q.       All right. The equipment that you described,  
5       the phone, the yagi antenna in a house, what's the cost of  
6       that, approximately?

7             A.       At the time that we did it for the  
8       Nebergals -- and, you know, with time, technology gets  
9       better and cheaper. So I really don't know what the cost of  
10      that equipment is today, not being involved in the  
11      day-to-day operations. But at that time we did it for the  
12      Nebergals, it was my recollection that we spent about \$600  
13      on hardware to make that happen.

14            Q.       Okay. You don't know what it would be today?

15            A.       No, I do not. Again, I think Mr. Kurtis is  
16      probably familiar with those type of numbers.

17            Q.       And this probably is not extremely pertinent  
18      to this, but just curious in regard to access to your  
19      network, if I am another -- if I am on another service in  
20      AT&T or Sprint or any other wireless service and I am  
21      utilizing Mid-Missouri's tower because that's the only tower  
22      available or whatever the reason, do I have the ability to  
23      access that tower without use of credit card?

24            A.       Yes, you do. Typically Mid-Missouri Cellular  
25      enters into roaming arrangements with other carriers. And I

1 know that specifically because many of our competitors have  
2 only built out the corridors and they rely on our service to  
3 provide service to their customers when those customers  
4 stray away from the main corridors where there's coverage.  
5 And those arrangements are specific by carrier and are  
6 covered under inter-carrier roaming arrangement agreements.

7 Q. Has that always been the case with  
8 Mid-Missouri Cellular?

9 A. Pretty much. Early on -- you know, the first  
10 year in service obviously roaming was a new issue that --  
11 that was just developing in its infancy. And I think early  
12 on in the first few months we had service if a customer came  
13 into our area and wanted to use their phone, they had to  
14 give us their credit card or make some sort of payment  
15 arrangements, either direct billing or credit card. But  
16 that's pretty much gone for the most part. Usually it's  
17 through roaming arrangements.

18 Q. Okay. And the issues in regard to whether or  
19 not the company would be willing to abide by quality of  
20 service standards that exist for ILECs, is that again  
21 another question for Mr. Kurtis?

22 A. Yes. I believe the specifics of it would be.  
23 In the FCC's order that they issued last Friday, they set  
24 forth specific things that the Public Service Commission,  
25 meaning the Missouri Public Service Commission in this case,



1       can require of the wireless carrier. And I think Mr. Kurtis  
2       is very well versed in what those are.

3                   CHAIR GAW: I'll just wait and ask him then.  
4       Thank you, sir.

5                   JUDGE DIPPELL: Commissioner Murray, do you  
6       have questions?

7                   COMMISSIONER MURRAY: Just a few, thank you.

8       QUESTIONS BY COMMISSIONER MURRAY:

9           Q.       Good morning, Mr. Jones.

10          A.       Good morning.

11          Q.       Mr. Jones, do wireless customers currently pay  
12       Universal Service Funding fees?

13          A.       Yes. Wireless service is assessed by the  
14       Universal Service Administrative Company.

15          Q.       And is it your testimony that the costs of  
16       Universal Service Funding may go down in terms of the  
17       wireline companies as a result of the ETC status being  
18       granted to Mid-Missouri Cellular?

19          A.       Yeah. Certainly I believe the cost could.  
20       Because if you look at it, wireless technology is a  
21       general -- the cost of serving on a per customer basis is  
22       less than it is in traditional wireline networks in rural  
23       areas. In urban areas it's probably closer to on par, but  
24       in the rural areas where we have low density and not very  
25       many customers per mile, wireless provides a much lower cost

1 threshold than traditional wireline facilities do.

2 Q. And currently -- and I don't know how Friday's  
3 FCC ruling changed anything, but it's my understanding that  
4 currently state commissions have to, on an annual basis,  
5 verify to the FCC that those companies who have ETC status  
6 are using the Universal Service Funding as it's intended.

7 And if granting ETC status to wireless  
8 companies makes it no longer cost effective for wireline  
9 companies to build out their facilities in certain rural  
10 areas, will the end result of that be that those wireline  
11 companies won't be eligible for the high-cost funding  
12 because they won't be using it for providing service to  
13 high-cost areas?

14 A. It's my understanding that ETC status -- as  
15 long as the company has ETC status, they're eligible to have  
16 universal service support available to them to serve those  
17 customers. I think -- I think the difference is, is the  
18 customer in the future -- if there's multiple ETC carriers  
19 granted, the customer will have choice of who provides them  
20 that essential telecommunications service.

21 Today in the rural areas there's only one shop  
22 to get it from and that's the incumbent LEC. I think as you  
23 grant ETC status to wireless and other providers, the  
24 customers will have a choice of who they choose to provide  
25 their essential service.

1           Q.       But once you're granted ETC status, you get  
2       Universal Service Funding for all of your customers, don't  
3       you?

4           A.       Yes. I think that -- that based on -- I think  
5       there's some criteria based upon where they live. I think  
6       Mr. Kurtis is probably more versed in that than I am. I've  
7       been out of the loop for a couple of years, so I don't know  
8       exactly how the mechanisms work, but I think it's based on  
9       the location of the customer.

10          Q.       Okay. Well, I just was thinking about your  
11       example of how it was much more cost effective to provide  
12       wireless access to the customer that you quoted in your  
13       testimony, why we would continue to provide funding to a  
14       wireline carrier if the wireline carrier weren't trying to  
15       provide access.

16          A.       Right. And, there again, I think the funding  
17       level in the future is designed to be driven based on who  
18       the customer chooses. And then the carrier that has the  
19       customer gets the support.

20          Q.       So if the customer chose the wireline carrier  
21       and it cost \$10,000 or more to provide service through the  
22       wireline carrier, that would be the customer's choice?

23          A.       That's my understanding, correct.

24          Q.       And the Universal Service Fund would support  
25       that?

1           A.       That's my understanding.  Again, I would  
2       encourage you to talk with Mr. Kurtis about that because  
3       he's much more familiar with the current rules and  
4       regulations than I am, having been out of it for a couple of  
5       years.

6           Q.       You mentioned inter-carrier roaming agreements  
7       earlier.  And I was just wondering, are they as contentious  
8       as inter-carrier compensation agreements in the wireline --  
9       or the landline arena?

10          A.       They can be.  They can be.  They can be  
11       painful and difficult at times.

12                   COMMISSIONER MURRAY:  Okay.  Thank you.  I  
13       think that's all I have.

14                   JUDGE DIPPELL:  Commissioner Clayton, do you  
15       have questions?

16                   COMMISSIONER CLAYTON:  No questions.

17                   JUDGE DIPPELL:  All right then.  Is there  
18       further cross-examination based on questions from the Bench  
19       from the Office of Public Counsel?

20                   MR. DANDINO:  Yes, your Honor.

21       FURTHER CROSS-EXAMINATION BY MR. DANDINO:

22          Q.       Good morning, Mr. Jones.

23          A.       Good morning.

24          Q.       Just wanted to follow up on a question  
25       suggested by Commissioner Murray about the interconnection

1 roaming agreements and she asked you whether it was just as  
2 contentious with the wireline companies.

3 Has it been Mid-Missouri's Cel-- Cellular -- I  
4 can't pronounce that word -- the applicant's experience that  
5 they've had contentious, let's say, agreements or disputes  
6 with wireline companies concerning the wireless termination  
7 onto the wireline -- local network?

8 A. Let me say I'm pleased and proud to be able to  
9 represent to this Commission that Mid-Missouri Cellular  
10 since its inception has always paid for the termination of  
11 its traffic to the wireline community. I think if you go  
12 back and look at the record, I don't think you'll see we  
13 were named in any proceedings as -- as someone that had not  
14 compensated the wireline community.

15 From its inception we knew the obligation was  
16 there because we were also in the wireline business, so we  
17 understood the obligations and -- and always made sure that  
18 we terminated our traffic in such a manner that compensation  
19 was paid.

20 Early on, most all the compensation was paid  
21 through access rates because we handed the traffic to the  
22 interexchange carrier and they terminated it under access.  
23 In more recent years we've entered into direct  
24 interconnection.

25 And I think the issue you allude to there is

1 indirect interconnection. And Mid-Missouri Cellular has  
2 always believed in direct interconnection arrangements. And  
3 as we enter into those, obviously compensation flows under  
4 those direct interconnection arrangements.

5 Q. Do you have direct interconnection agreements  
6 with Alma and Citizens?

7 A. I tell you -- let me say I'm not absolutely  
8 sure, but I believe we have a direct interconnection  
9 arrangement with Citizens Telephone Company. I'm not sure  
10 on Alma. But, there again, I've been out of the day-to-day  
11 for two years, so I'm not absolutely certain of it.

12 Q. Do you have any information concerning  
13 termination of interconnection agreements with the Spectra  
14 companies?

15 A. The knowledge that I have is that when I was  
16 involved with Mid-Missouri Cellular, and I still believe  
17 this is true today but I can't say for sure, if we don't  
18 have a direct interconnection agreement with that carrier,  
19 we terminate it through the services of an IXC and access is  
20 paid.

21 Q. Okay. Commissioner Murray also asked you  
22 about does the wireless customers -- your wireless customers  
23 pay USF assessments. Is that assessed as a surcharge on the  
24 bill?

25 A. Yes, it is.

1 Q. Do you know what the percentage is right now?  
2 A. I'm sorry, I do not.  
3 MR. DANDINO: That's all I have, your Honor.  
4 Thank you.  
5 JUDGE DIPPELL: Thank you. Is there further  
6 cross-examination from Staff?  
7 MR. POSTON: No, thank you.  
8 JUDGE DIPPELL: From Alma?  
9 MR. ENGLAND: No, your Honor.  
10 JUDGE DIPPELL: CenturyTel?  
11 MR. STEWART: No questions.  
12 JUDGE DIPPELL: Is there any redirect?  
13 MR. DEFORD: Just a couple, your Honor. Thank  
14 you.  
15 REDIRECT EXAMINATION BY MR. DEFORD:  
16 Q. Mr. Jones, you were asked questions concerning  
17 the valuation of the company. Are you an expert on  
18 valuation of the company? Do you hold yourself out to know  
19 what the valuation of the company should be?  
20 A. No, I don't.  
21 Q. I think you were also asked questions as to  
22 your opinion on whether the revenue of the company would  
23 increase if you were -- if Mid-Missouri Cellular were to be  
24 granted ETC status; is that correct?  
25 A. That's correct.

1           Q.       Is it your understanding that the support  
2       received from USF would be spent on network upgrades and  
3       other things that the fund is contemplated to support?

4           A.       Yes.  It's my understanding that the goal of  
5       Mid-Missouri Cellular is to use the proceeds from ETC or the  
6       Universal Service Fund to enhance and build out its network  
7       and deploy new technologies, enabling new services, as I  
8       think Mr. Dawson talked about, the E-911, the high-speed  
9       data type applications, broadband data.

10          Q.       So it doesn't necessarily have anything to do  
11       with increasing Mid-Missouri Cellular's revenue?

12          A.       That's correct.

13                 MR. DEFORD:  Thank you, your Honor.  That's  
14       all I have.

15                 JUDGE DIPPELL:  Thank you.

16                 I think we'll go ahead then -- Mr. Jones, I  
17       believe that's all the questions for you.

18                 MR. DEFORD:  Your Honor, could Mr. Jones be  
19       excused for the remainder of the hearing?  I believe he has  
20       a commitment in Texas this afternoon that he needs to get  
21       back to.

22                 JUDGE DIPPELL:  I believe the Commission is  
23       finished with you, Mr. Jones, and you may be excused to  
24       leave.

25                 THE WITNESS:  Thank you.



1 JUDGE DIPPELL: Thank you.

2 And I think we'll go ahead and get started

3 with Mr. Kurtis, perhaps get him sworn and so forth and then

4 we may break early for lunch since there seems like there

5 will be a long line of questioning for Mr. Kurtis, from what

6 it sounds like.

7 MR. DEFORD: I think Mr. England was going to

8 waive on Mr. Kurtis.

9 MR. ENGLAND: I was until all the witnesses

10 passed their questions to Mr. Kurtis.

11 MR. DEFORD: It was worth a shot.

12 JUDGE DIPPELL: Mr. DeFord, would you like to

13 call your next witness?

14 MR. DEFORD: Yes. I call Mr. Kurtis.

15 (Witness sworn.)

16 JUDGE DIPPELL: Thank you.

17 Go ahead, Mr. DeFord.

18 MICHAEL KURTIS testified as follows:

19 DIRECT EXAMINATION BY MR. DEFORD:

20 Q. Would you please state your name and business

21 address for the record?

22 A. Michael K. Kurtis 1000 Potomac Street,

23 Northwest, Suite 200, Washington D.C., 20007.

24 Q. And Mr. Kurtis, by whom are you employed and

25 in what capacity?

1           A.       I'm employed by the firm of Bennett and  
2       Bennett, PLLC as of counsel in a legal capacity and manager  
3       of the engineering department.

4           Q.       Did you cause to be prepared Direct and  
5       Amended Surrebuttal Testimony that has been marked for  
6       purposes of this proceeding as Exhibits 4 and 5 for  
7       identification?

8           A.       Yes.

9           Q.       Mr. Kurtis, if I were to ask you the same  
10      questions set forth therein today, would your answers be  
11      substantially the same?

12          A.       There would be three changes to that.

13          Q.       And starting with corrections, if there are  
14      corrections, would you go through what those changes would  
15      be, please?

16          A.       Yes. As I -- as I alluded in the opening  
17      comments, I'm currently employed by the firm of Bennett and  
18      Bennett. On my Direct Testimony on -- I believe it was  
19      line 14 of the first page I indicated that I was the founder  
20      and principal officer and director of Kurtis and Associates,  
21      PC, which was true at the time that the testimony was  
22      prepared. Bennett and Bennett has acquired Kurtis and  
23      Associates, PC, both legal and the engineering practice so  
24      I'm now employed by Bennett and Bennett.

25          Q.       And is there a typographical error in your

1 testimony as well?

2 A. Yes. With respect to the Amended Surrebuttal  
3 Testimony on page 15, on line 20 toward the end of the line  
4 the -- as typed, it reads, While MMC operate. And it should  
5 be, While MMC operates.

6 Q. So make "operates" plural?

7 A. "Operate" should be changed to "operates."

8 Q. Are there any other changes or corrections or  
9 additions that you need to make to your testimony to make it  
10 accurate at this time?

11 A. Yes. With respect to the Surrebuttal  
12 Testimony, again, on page 2, I provided an answer at line 15  
13 which stated, In cases decided by the FCC, ETC status has  
14 been uniformly granted without limiting conditions or  
15 qualifications; thus, the FCC has awarded ETC status  
16 irrespective of the underlying ILEC's classification as  
17 rural or nonrural carrier.

18 And while that testimony was correct at the  
19 time that it was submitted on January 14th, as Mr. England  
20 alluded in his opening comments, the Federal Communications  
21 Commission issued an order on Friday, January 22nd, in the  
22 matter of the Federal State Joint Board on Universal  
23 Service, Virginia Cellular's LLC Petition for Designation As  
24 an Eligible Telecommunications Carrier in the Commonwealth  
25 of Virginia.

1                   And that state -- that case made a number of  
2                   clarifications that I think are -- result in a change in the  
3                   testimony that I had just read to you.

4                   Q.        Would you please describe what those changes  
5                   to your testimony would be?

6                   A.        Certainly. The first thing that the  
7                   Commission did is the Commission addressed the issue of the  
8                   public interest requirement under the statute and provided  
9                   guidance as to what was and was not in the public interest  
10                  in a rural ILEC's service area.

11                  And what they found was in addition to  
12                  addressing the issue dealing with cream skimming, which I  
13                  will get to in a moment, that the increase in competition,  
14                  the availability of mobility, mobility in the context of  
15                  911, and the benefits of allowing access to service where no  
16                  wireline service is available, all were the basis upon which  
17                  finding a grant to be in the public interest based upon the  
18                  statutory requirements, all of those items have been  
19                  addressed in the Mid-Missouri Cellular application and  
20                  testimony.

21                  The Commission also addressed a quality of  
22                  service issue, which there have been some questions  
23                  previously raised. Some of those related to dropped calls  
24                  and the willingness to mitigate or a commitment to resolve  
25                  those particular issues by extending coverage into the

1 higher cost areas, which Mid-Missouri has committed to do.

2 And also there was a question raised as to  
3 some of the practices common in the wireline -- the wireless  
4 industry. And the Federal Communications Commission made  
5 note of the fact that the Cellular Telecommunications  
6 Industry Association has recently adopted a set of voluntary  
7 guidelines with respect to the quality of service that  
8 wireless carriers make available to their customers.

9 And specifically those guidelines, as the FCC  
10 explains, wireless carriers agree to disclose rates and  
11 terms of service to customers, make available maps showing  
12 where service is generally available, provide contract terms  
13 to customers and confirm changes in service, allow a trial  
14 period for new service, provide specific disclosures in  
15 advertising, separately identify carrier charges from taxes  
16 on billing statements, provide customers the right to  
17 terminate service for changes in the contract terms, and  
18 provide ready access to customer service, promptly respond  
19 to customer inquiries and complaints received from  
20 government agencies, and abide by policies for protection of  
21 consumer privacy.

22 Mid-Missouri Cellular is a member of the  
23 Cellular Telecommunications Industry Association.  
24 Mid-Missouri Cellular has committed to adopt the voluntary  
25 guidelines specified in -- by the Telecommunications

1     Industry Association, which the Federal Communications  
2     Commission has found gives a -- satisfies concerns on  
3     quality of service.

4                 But, more importantly, the Federal  
5     Communications Commission made it clear that the grant of  
6     an ETC status does not insulate the carrier from full  
7     accountability to that Commission or to the state commission  
8     with respect to the use of those funds and the  
9     appropriateness of the funds.

10                I believe Commissioner Murray pointed out  
11     quite accurately in her testimony that this Commission has a  
12     requirement to certify on an annual basis that those  
13     entities that are certified for ETC status are, in fact,  
14     properly using the funds for ETC status. And the FCC made  
15     it clear that the grant of ETC status to a wireless carrier  
16     is no different.

17                Even though there is not the -- the same  
18     degree of regulation that is available in a wireline  
19     context, the Commission would retain oversight with respect  
20     to ensuring that the monies used for the provision -- the  
21     monies used -- are used for the provision, maintenance and  
22     upgrading of facilities and services for which support is  
23     intended. The specific avenues that the FCC addressed were  
24     the filing of an annual certification similar as to what the  
25     Commission requires from the local exchange carriers.

1                   But the thing to keep in mind here is that  
2                   this Commission, again in the context of the Mid-Missouri  
3                   Cellular application, has additional safeguards built in  
4                   that may or may not be present in another situation, but  
5                   here there is no issue as to where those support monies are  
6                   going to be used.

7                   Mid-Missouri Cellular is licensed only in the  
8                   area that is shown on the -- on the board. It is an  
9                   entirely rural area, it is entirely within the state of  
10                  Missouri. So the money that is available is going to be  
11                  used solely in that area.

12                  The Commission would have the oversight to  
13                  make sure how that money was used, knowing that if the money  
14                  is used for network, it can physically only be used in the  
15                  area where Mid-Missouri operates its network.

16                  Finally, from an oversight standpoint, the  
17                  Commission made very clear that they have the ultimate  
18                  authority on ETCs, which this Commission, having exercised  
19                  jurisdiction in Missouri, would also have.

20                  You have the right to subsequently determine  
21                  that the ETC status has been abused, that the funds have not  
22                  been properly used. And you could -- you could revoke ETC  
23                  status for Mid-Missouri Cellular just as you can revoke --  
24                  revoke ETC status for a competitive local exchange carrier  
25                  and just as you have the authority to revoke ETC status for

1 any of the ILECs in the state of Missouri.

2 So this is not the situation where the  
3 Commission is essentially saying, We're going to grant you  
4 the certification, and once they do, they lose control of  
5 the process. That is not the case at all.

6 Also, the Commission has made it very clear  
7 that there are ongoing policy discussions taking place as to  
8 wireless versus wireline, as to what the contribution should  
9 be, how much compensation should be available to each  
10 category. The Federal State Joint Board on Universal  
11 Service is -- has been working and is hoping to make  
12 recommendations in the next several months. The FCC  
13 envisions undertaking a rule-making in conjunction with  
14 that.

15 But what they made clear is that the grant of  
16 the ETC status does not grandfather any Eligible  
17 Telecommunications Carrier to any compensation level or  
18 structure.

19 If, at the end of the results of those  
20 proceedings, there are policy changes made as to how the  
21 support for wireless should be calculated or as to what  
22 level of support wireline versus wireless are entitled to,  
23 those would be applicable to Mid-Missouri Cellular as well  
24 even if the Commission granted Mid-Missouri Cellular ETC  
25 status today and the basis for support changed six or eight



1 or nine months from now.

2 The other thing that the Commission made very  
3 clear is the impact on the Universal Service Fund. If  
4 Mid-Missouri Cellular receives USF support, it does not  
5 diminish by one cent the dollars and cents that are  
6 available to the ILECs. The ILEC's contribution is based on  
7 their cost and their number of subscribers.

8 So if Mid-Missouri Cellular comes in and  
9 becomes eligible as an ETC, currently under the federal  
10 rules the level of support for the Mid-Missouri customers  
11 would be tied to the ILEC where that customer's billing  
12 address is located at. But to the extent that that  
13 subsequently changes, that would also change here. But  
14 unless the customer physically disconnects their line from  
15 the ILEC, the grant of ETC status here does not take one  
16 cent away from the inter-- the ILEC.

17 Also, the grant of ETC status in the case of  
18 Mid-Missouri Cellular or the denial of ETC status for  
19 Mid-Missouri Cellular will have no impact on what -- whether  
20 or not wireless carriers are going to be able to receive USF  
21 support or whether or not the current methodology is the  
22 appropriate way of calculating support.

23 Those issues are going to be decided on the  
24 federal level. The Commission made is very clear in its  
25 order that those decisions apply retroactive as well. The

1     only decision before this Commission is whether, under the  
2     current policy, any of the federal funds that are available  
3     to support wireless carriers in rural areas are going to be  
4     used for the benefit of the citizens in Missouri. And that  
5     is really the only issue that is on the table today.

6             The FCC also addressed the concerns on partial  
7     service areas, study areas, service areas. And they went  
8     through a very interesting analysis where a wireless carrier  
9     comes in and provides service to not all of the study area  
10    of an incumbent local exchange carrier.

11            And this is what I referred to earlier as the  
12    cream skimming. What the Commission wants to make sure does  
13    not happen is that Mid-Missouri Cellular does not come in  
14    and go for a specific area to qualify as an ETC because that  
15    area is entitled to an above average level of support.  
16    We're not picking and choosing the areas, there are rational  
17    basis upon which those decisions were made.

18            In this particular case, the -- and as the  
19    Commission pointed out in the case of Virginia Cellular,  
20    right out of the box the wireless carrier is limited in  
21    where they can provide service. They have a defined  
22    geographic licensed service area and that's the limit of  
23    where their service can be provided.

24            In this particular case, as in virtually every  
25    case, the wireless license areas do not neatly correspond to

1 the specific areas that make up a study area or a service  
2 area for local exchange carrier.

3 In this case, Mid-Missouri Cellular only  
4 sought ETC status from those carriers where there was at  
5 least one wire center that was entirely served within  
6 Mid-Missouri's ETC application. There were a handful of  
7 rural areas where there were only partial exchanges served,  
8 no entire wire center boundaries and those were not included  
9 in the request for ETC.

10 The Commission recognized that you're going to  
11 come up with situations, again specifically in this order,  
12 where you have a situation like Spectra where you have  
13 Concordia, which is a non-contiguous stand-alone wire  
14 center, but is part of a wider study area.

15 In this particular case, what the Commission  
16 made very clear is that everyone understand that there's a  
17 distinction between service area and study area. The  
18 service area -- which the Commission made clear again, that  
19 the State of Virginia Public Service Commission -- even  
20 though they did not exercise jurisdiction over ETC, the  
21 state commission retains jurisdiction to certify a reduced  
22 service area that did not include an entire study area.

23 The analysis that the FCC went through is to  
24 say, okay, what is it that prompted the decision to serve  
25 those partial study areas. And what they found is that in

1 five of the six cases of the rural carriers, they found that  
2 there was not cream skimming.

3 But in one the Commission actually found that  
4 there was cream skimming. And they specifically denied the  
5 ETC request of the wireless carrier in the service area of a  
6 company called NTELOS, which was a local exchange carrier in  
7 Waynesboro, Virginia.

8 And what the Commission did is they looked at  
9 that specific area. And it turned out that that one wire  
10 center, even though the wireless company could only apply  
11 for that one, that one represented a substantially greater  
12 density of population than the average of the study area.  
13 And we're talking density numbers that were in the magnitude  
14 of 10, 12 times the average study area for that particular  
15 carrier. So the Commission found that even though it was  
16 unintentional, that was cream skimming and they would not  
17 certify the ETC for that one low-cost area.

18 And the reason that they did that is because  
19 the level of support is averaged across the entire cost  
20 basis for that particular ILEC, and they don't want them to  
21 come in and pick the area where there is the lowest cost to  
22 provide service but receive USF support tied to the average  
23 level of service. So in that one case they denied it.

24 In the other ones they found that that was not  
25 the case, that the population densities were not

1       dramatically different either inside the market and outside  
2       or in many instances were actually lower inside the market.

3               But they specifically addressed the  
4       noncontiguous situation and they said that they found a  
5       presumption that in the event that they were to require an  
6       ETC to serve the noncontiguous areas as well as the  
7       stand-alone single wire center, that that could, in fact, be  
8       a significant barrier to entry of the ETC.

9               But the one thing that the Commission did  
10      clarify absolutely clearly is that their decision to split  
11      off portions out of a study area did not change or in any  
12      way increase the administrative burden on the ILEC.

13              They designated -- they requested that the  
14      State of Virginia designate that noncontiguous area as a  
15      separate service area, meaning that an ETC coming in and  
16      requesting to provide coverage there would have to pick up  
17      that entire wire center as a service area, but they made it  
18      clear they were not requiring the ILEC to set that up as a  
19      separate study area.

20              So the ILEC can continue to do their study  
21      based upon the old study area, which included that one  
22      segregated wire center with the rest of the state, and use  
23      that for all of their accounting and reporting.

24              And the reason the Commission found that that  
25      was not improper is there was not a great disparity in the

1 population densities in that area versus the average in the  
2 state, which is a similar situation to what we have here in  
3 Concordia.

4 So those are the changes that the FCC has made  
5 in clarifications their order. And while this order does  
6 not become final for a period of 40 days, I point out that  
7 this was a 4-to-1 decision from the FCC. The issue that  
8 would be subject to appeal would be the designation of this  
9 particular carrier as an ETC.

10 But what you have here is the Federal  
11 Communications Commission providing the commissions legal  
12 interpretation of the statute. And that is something that  
13 even a single dissenting opinion was not -- was not  
14 questioned. So although the order is not final, with  
15 respect to its context here and the guidance that it's  
16 offering on the process, the Commission should be able to  
17 rely upon it.

18 Q. Mr. Kurtis, with those corrections and slight  
19 modification to your testimony, would the remainder of your  
20 answers be true and correct to the best of your information  
21 and belief?

22 A. Yes, they would.

23 MR. DEFORD: I would offer Exhibits 4 and 5  
24 and tender the witness for cross.

25 JUDGE DIPPELL: Would there be any objection

1 to Exhibits 4 and 5 coming into the record?

2 Then I will receive those into the record.

3 (Exhibit Nos. 4 and 5 were received into

4 evidence.)

5 JUDGE DIPPELL: And I will also note that I

6 will allow Rebuttal Testimony from the other witnesses to

7 the further Direct Testimony that was provided. That

8 doesn't mean I necessarily want to get into a legal debate

9 on the witness stand about what the FCC's order means, but

10 certainly you have the opportunity to respond.

11 Mr. DeFord?

12 MR. DEFORD: Your Honor, we have copies of the

13 FCC's order that we would be pleased to mark for an exhibit

14 if the Commission would like.

15 JUDGE DIPPELL: I was about to ask you for

16 that. I would very much like for the Commissioners and I to

17 have an opportunity to see that order. We can go ahead and

18 just for -- to keep the record clear, we can just mark it as

19 an exhibit and be Exhibit No. 10.

20 MR. DEFORD: I thought you might.

21 (Exhibit No. 10 was marked for

22 identification.)

23 JUDGE DIPPELL: And I believe this is

24 something that the Commission could take official notice of,

25 legal notice of, but would there be any objection to the FCC

1 order that we've been discussing coming into the record?  
2 All right. That's received into the record  
3 also.  
4 (Exhibit No. 10 was received into evidence.)  
5 JUDGE DIPPELL: All right then. Well, I was  
6 going to take a break early, but we're not getting out a lot  
7 earlier. We're going to go ahead and break for lunch now  
8 and come back at one o'clock. We can go off the record.  
9 (A recess was taken.)  
10 JUDGE DIPPELL: Okay. We can go ahead and go  
11 back on the record. And Mr. Kurtis has returned to the  
12 witness stand. And I believe we are ready to begin with  
13 cross-examination. Is there cross-examination by Office of  
14 Public Counsel?  
15 MR. DANDINO: No questions, your Honor.  
16 JUDGE DIPPELL: Staff?  
17 MR. POSTON: Thank you.  
18 CROSS-EXAMINATION BY MR. POSTON:  
19 Q. Good afternoon, Mr. Kurtis.  
20 A. Good afternoon.  
21 Q. We've had a lot of deferrals to you this  
22 morning. And that was kind of surprising because the two  
23 previous witnesses were actual employees of Mid-Missouri  
24 Cellular. And I take it you're not an employee of  
25 Mid-Missouri Cellular?



1           A.       That's correct.

2           Q.       Can you explain more your relationship with  
3 Mid-Missouri Cellular? Why is it that a lot of the  
4 operational questions and things that were asked were  
5 deferred to you specific to Mid-Missouri Cellular?

6           A.       Well, Mid-Missouri Cellular is a small rural  
7 wireless provider and does not have the resources that the  
8 AT&Ts and the Sprints do. They utilize our engineering and  
9 legal staff to provide them access to the same types of  
10 resources that the large carriers do.

11                    So with respect to system design, expansion,  
12 coverage, they utilize our engineering staff, they do not  
13 have an in-house engineering staff. With respect to  
14 structuring several of the rate plans and offering, while  
15 the business people ultimately have the yes and the no, the  
16 intricacies of how they tie in with the universal service  
17 requirements, how lifeline services are structured are  
18 specific and have a lot of nuances that on a day-to-day  
19 basis they have not been dealing with.

20           Q.       And earlier Mr. Dawson and Mr. Jones had both  
21 testified that USF funds received by their company would be  
22 used to expand their network. Do you recall that?

23           A.       Yes.

24           Q.       And Mr. Dawson said there are six wireless  
25 providers and that Mid-Missouri Cellular by far serves the

1       greatest area. Do you recall that?

2               A.       Yes.

3               Q.       And Mr. Jones had testified that USF would be

4       used to provide consumers with more competition and more

5       choice. How many customers and areas that are not served by

6       Mid-Missouri Cellular currently or another wireless carrier,

7       how many of those areas exist in the service area where all

8       the customer has is ILEC service available to that customer?

9       Are you aware?

10              A.       I am not aware.

11              Q.       Okay. In your Direct Testimony that you gave

12       on the stand this morning, you supplemented your Direct in

13       regards to the FCC's Virginia Cellular order; is that

14       correct?

15              A.       Corrected my Surrebuttal.

16              Q.       Oh, corrected your Surrebuttal. Okay.

17                      And one of the questions that was being

18       corrected was in your Surrebuttal where you talked about

19       conditions and qualifications of the FCC placed on carriers

20       where it had granted ETC status?

21              A.       Correct.

22              Q.       Do you have the FCC's Virginia order before

23       you?

24              A.       Yes, I do.

25              Q.       Could you please turn to paragraph 46? I just

1 wanted to follow up on the question about conditions and  
2 qualifications the FCC, in this particular instance, did  
3 place on Virginia Cellular. Are you familiar with paragraph  
4 46?

5 A. Yes, I am.

6 Q. Could you explain the conditions and  
7 qualifications that the FCC placed on Virginia Cellular in  
8 order to grant it ETC status?

9 A. The qualifications were focused around  
10 Virginia Cellular's commitment, similar to Mid-Missouri  
11 Cellular's, to be able to expand their footprint to take it  
12 into areas where service was going to be required.

13 There would be an annual reporting requirement  
14 with respect to both the use of the funds, any complaints  
15 that were received, as well as -- although it's not  
16 specifically in paragraph 46, there's additional  
17 requirements with respect to the steps that would be taken  
18 in response to a request for service from a prospective  
19 customer with respect to the carrier of last resort  
20 obligations, which again, become incorporated into the  
21 annual reporting requirement to allow the Commission to  
22 determine that those -- those mandates are being met.

23 Q. Would Mid-Missouri Cellular be willing to  
24 agree in a stipulation to abide by similar conditions so  
25 long as Mid-Missouri Cellular is an ETC?

1           A.       Yes.

2                   MR. POSTON: May I approach the witness?

3                   JUDGE DIPPELL: Yes. You might want to show  
4       that to his counsel first.

5                   MR. POSTON: I'm going to ask that this  
6       document be placed into evidence once I have a foundation  
7       laid for it, so I'm going to pass out copies.

8                   JUDGE DIPPELL: We'll mark it as Exhibit 11  
9       for identification.

10                   (Exhibit No. 11 was marked for  
11       identification.)

12       BY MR. POSTON:

13           Q.       Mr. Kurtis, have you looked over the document  
14       that I've handed you?

15           A.       I've glanced at it, yes.

16           Q.       Are you familiar with this document?

17           A.       No, I'm not.

18           Q.       What does this appear to be to you?

19           A.       It appears to be a letter from the law firm of  
20       Lukas, Nace, Gutierrez and Sachs, on behalf of Virginia  
21       Cellular to the Federal Communications Commission.

22           Q.       And does this letter appear to amend Virginia  
23       Cellular's petition to the FCC regarding its ETC status?

24           A.       I have not had a chance to read the letter.

25           Q.       Would you please just read the first

1       introductory paragraph in the letter?

2               A.       Virginia Cellular, LLC, hereby amends its  
3       above-referenced petition for ETC status in the Commonwealth  
4       of Virginia to provide additional information requested by  
5       the Commission through its Wireline Competition Bureau.

6               Q.       And if you turn to -- if you look under the  
7       first number titled CTIA's Consumer Code for Wireless  
8       Service, looking below that number does it appear that this  
9       is where Virginia Cellular committed to abide by CTIA's  
10      Consumer Code?

11              A.       Yes.

12              Q.       And turning to the next page under No. 2, does  
13      this appear to be where Virginia Cellular has made  
14      commitments regarding consumer complaint reporting?

15              A.       Yes.

16              Q.       And I could go on with the additional points,  
17      but would you agree that this letter appears to be the  
18      commitments that Virginia Cellular made to the FCC in order  
19      for the FCC to approve its ETC designation?

20              A.       I have not had a chance to read the letter.

21              Q.       Do you have any reason to dispute that this is  
22      the letter --

23              A.       I have no testimony as to the letter or not.  
24      I have not had a chance to review the letter. The first two  
25      items clearly indicate those two and I have no reason to

1       doubt it, but I could not testify that that's what it is or  
2       is not.

3                   MR. POSTON: I'm going to attempt to enter  
4       this into evidence without taking the time to have the  
5       witness read the entire thing, but at this time I move to  
6       have this letter entered into evidence.

7                   JUDGE DIPPELL: Is there any objection to  
8       Exhibit No. 11?

9                   MR. DEFORD: I would object only insofar as  
10      this witness certainly has no familiarity with this. He  
11      can't verify, you know, what the document is. I mean, it  
12      appears to be correspondence from a law firm to the FCC on  
13      behalf of Virginia Cellular, and beyond that, I don't think  
14      we have any foundation for the document.

15                  JUDGE DIPPELL: Mr. Poston, do you have any  
16      other foundation for this document?

17                  MR. POSTON: No, I don't, other than what the  
18      document says itself.

19                  JUDGE DIPPELL: Is this document part of the  
20      official FCC record?

21                  MR. POSTON: Yes, it is.

22                  JUDGE DIPPELL: In the particular case that  
23      the order here has been entered?

24                  MR. POSTON: Correct. This letter comes from  
25      the FCC's website regarding Virginia Cellular's petition.

1                   MR. DEFORD: And we would have no objection to  
2                   the Commission taking official notice of this document if it  
3                   is indeed part of the FCC's record.

4                   JUDGE DIPPELL: Would there be any objection  
5                   to Exhibit 11 as an official record of the FCC?

6                   Then I will admit it on that basis.

7                   (Exhibit No. 11 was received into evidence.)

8                   MR. POSTON: Thank you.

9                   BY MR. POSTON:

10                  Q.        Would you agree that one of the commitments  
11                   that Virginia Cellular made and that the FCC required  
12                   Virginia Cellular is regarding their membership in the CTIA  
13                   and that they become a signatory to the CTIA's Code for  
14                   Wireless -- Consumer Code for Wireless Service?

15                  A.        I don't believe they required actual  
16                   membership in CTIA, but I do believe that they required  
17                   voluntary compliance with the terms of the code.

18                  Q.        Are you familiar with the CTIA's Consumer Code  
19                   for Wireless Service?

20                  A.        Yes, I am.

21                  MR. POSTON: May I approach again?

22                  JUDGE DIPPELL: Yes. Mr. Poston, could you  
23                   explain the acronym CTIA?

24                  MR. POSTON: Let's see.

25                  JUDGE DIPPELL: Is it Cellular Telephone

1 Industry Association?

2 MR. POSTON: I believe the witness can answer

3 that.

4 JUDGE DIPPELL: Mr. Kurtis?

5 THE WITNESS: Cellular Telecommunications and

6 Internet Association.

7 JUDGE DIPPELL: Thank you.

8 MR. POSTON: And if I could have this exhibit

9 marked as No. 12.

10 JUDGE DIPPELL: Yes.

11 (Exhibit No. 12 was marked for

12 identification.)

13 BY MR. POSTON:

14 Q. Mr. Kurtis, have you had an opportunity to

15 look over the document I handed to you?

16 A. Yes, I have.

17 Q. And does this appear to be an accurate copy of

18 the CTIA's Consumer Code for Wireless Service?

19 A. Yes, it does.

20 Q. Thank you.

21 MR. POSTON: Your Honor, I move for Exhibit

22 No. 11 to be entered into evidence.

23 JUDGE DIPPELL: Would there be any objection

24 to Exhibit No. 12? I believe we are on now 12.

25 MR. POSTON: I'm sorry, number 12.



1 JUDGE DIPPELL: Is there any objection to  
2 Exhibit No. 12?  
3 Then we will admit Exhibit No. 12 into the  
4 record.  
5 (Exhibit No. 12 was received into evidence.)  
6 BY MR. POSTON:  
7 Q. Mr. Kurtis, how long has Mid-Missouri Cellular  
8 been a member of the CTIA?  
9 A. I don't recall the exact date, but I believe  
10 it's around 10 years.  
11 Q. Does the CTIA or any other regulatory body  
12 that Mid-Missouri Cellular belongs to mandate that its  
13 wireless company members submit annual quality of service  
14 reports to any regulatory body?  
15 A. CTIA is not a regulatory body, but no.  
16 They're a trade association and none of the trade  
17 associations require submissions of any reports to the trade  
18 associations.  
19 Q. Has Mid-Missouri Cellular ever voluntarily  
20 provided quality of service reports to any regulatory body?  
21 A. No, they have not.  
22 Q. And isn't it true that the FCC did more than  
23 just require Virginia Cellular to be a signatory to the  
24 CTIA's Consumer Code for Wireless Service, but they required  
25 additional things as far as reporting requirements?

1           A.       Yes. I believe that's what I testified to.

2           Q.       Okay. I'd like to turn back to page 2 of your  
3 Surrebuttal Testimony. And you claim that you are not aware  
4 of an example where a state commission denied a wireless ETC  
5 application outright; is that correct?

6           A.       That is correct.

7           Q.       And you give a Utah example. And you recall a  
8 case where the Utah Public Service Commission limited an ETC  
9 grant to nonrural areas; is that correct?

10          A.       That is correct.

11          Q.       And in that example did the Utah PSC deny ETC  
12 status for the rural areas?

13          A.       I believe they did.

14          Q.       And is it your testimony that this Commission  
15 has the authority to approve ETC designation for the area  
16 served by the nonrural ILECs and in the same order deny ETC  
17 designation for the areas served by the rural ILECs?

18          A.       Yes, it does.

19          Q.       I'd like to turn to the public interest  
20 standard. And would you please explain your understanding  
21 of what the Commission must find before it grants ETC status  
22 to Mid-Missouri Cellular for areas served by the rural  
23 ILECs?

24          A.       Well, the Commission must find, before it  
25 grants ETC status to any entity in an area that's served by

1 a rural tel-- ILEC, that the grant of that application would  
2 be in the public interest.

3 Q. And you claim in your Surrebuttal and your  
4 Direct Testimony that designation of qualified ETCs promotes  
5 marketplace competition. However, Mid-Missouri Cellular is  
6 already competing in areas for which it seeks ETC  
7 designation. What is going to change that will promote  
8 competition?

9 A. Well, there are a number of items that are  
10 going to change to promote competition. They deal with  
11 specific network upgrades, which Mid-Missouri Cellular deems  
12 to be highly confidential. So we would request the  
13 appropriate treatment of that testimony.

14 MR. POSTON: I would ask that we go in-camera  
15 so the witness may answer this question.

16 JUDGE DIPPELL: Are you going to have any  
17 other non-in-camera questions?

18 MR. POSTON: Yes. We can come back.

19 JUDGE DIPPELL: Would it be possible to save  
20 the in-camera questions until the end?

21 MR. POSTON: Sure.

22 JUDGE DIPPELL: Well, now that we've cleared  
23 the room -- and if other counsel think they might have  
24 in-camera questions for this witness, we could maybe try to  
25 do those at that time also.

1 BY MR. POSTON:

2 Q. And some of these follow-up questions may also  
3 require in-camera.

4 A. I understand.

5 Q. You also claim that ETC status for  
6 Mid-Missouri Cellular will promote innovative services and  
7 new technologies. Can you please explain how the ETC grant  
8 will promote innovative services and new technologies?

9 A. That we would like to deal with in-camera as  
10 well.

11 Q. And isn't it true that Mid-Missouri Cellular  
12 is currently competing in its rural service areas with other  
13 wireless carriers as well as the ILECs?

14 A. That is correct.

15 Q. And doesn't this existing competition already  
16 create incentive for Mid-Missouri Cellular to offer  
17 innovative services and new technologies?

18 A. It's -- it's not quite that simple. What you  
19 need to do is there -- there are many wireless competitors  
20 in the market, but you need to look competitor by competitor  
21 as to where they're providing service, the type of service  
22 they're providing.

23 For example, we compete with Verizon Wireless,  
24 which is one of the -- in fact, as of this point, is the  
25 largest nationwide carrier in the United States. As we have

1 testified, Mid-Missouri Cellular presently operates in 27  
2 cell sites. In sharp contrast, Verizon, the largest  
3 nationwide carrier advertising the largest footprint  
4 operates 2 in that same area. So, yes, there is  
5 competition, but I don't believe that you would say that  
6 that is a head-to-head competition throughout the ETC  
7 designated area.

8                   And that is what the distinction really has to  
9 be looked at. The major nationwide players, as they have  
10 come in to provide service in the rural areas, have done a  
11 type of rural market cream skimming, if you will, where they  
12 will look and see where the major traffic arteries are,  
13 what, if you will, are the lowest cost service area in a  
14 particular rural market such as Interstate 70, US Route 50,  
15 65 going north/south. And they'll design their coverage  
16 along some or all of those particular areas.

17                   But as many who have service from the  
18 nationwide carriers know, once you get off of those traffic  
19 arteries, your service drops down dramatically.

20                   In contrast, the Mid-Missouri Cellular network  
21 was designed only to serve this rural area. They have no  
22 other demands on their use of funds or priorities. There is  
23 no area in the United States that has a higher priority to  
24 Mid-Missouri Cellular because this is all they serve. So  
25 they put cell sites in the communities like Holden and

1 Gilliam and Pilot Grove that none of the major competitors  
2 provide service to.

3 Q. My question to you was about innovative  
4 services and new technologies.

5 A. Yes. And we -- we would prefer to get into  
6 the specifics of those, because of the competitive nature of  
7 it, in-camera. We believe that to be highly confidential.

8 Q. Well, my question asked if the existing  
9 competition already created that incentive for you to offer  
10 innovative services and new technologies. And you talked  
11 about --

12 A. Oh, I think the existing competition would  
13 have created the incentive for Mid-Missouri Cellular to  
14 provide those competing services and technologies along the  
15 lower cost, most highly profitable portions of the market.  
16 But I think not the incentive to do it in the high cost  
17 rural areas, which has been the trademark of Mid-Missouri  
18 Cellular since its inception.

19 Q. And do you agree that when a CLEC gains a  
20 customer, the CLEC is usually taking the customer from the  
21 ILEC; whereas, when a wireless carrier gains a customer, the  
22 customer is usually supplementing his or her wireline while  
23 remaining a customer of the ILEC?

24 A. I don't believe that that's an accurate  
25 generalization. I believe that both of those circumstances

1 do occur. But you're seeing -- you're seeing a lot of  
2 changes in the industry today. There's a strong move for  
3 multiple phone lines where the addition of a CLEC may or may  
4 not be for the sole phone service that that entity has.

5 With respect to a wireless carrier, you're  
6 beginning to see a migration where some people are using  
7 wireless as a substitute for the landline. But I think the  
8 key point is that the -- if the -- if your supposition is  
9 true, when this Commission authorizes a CLEC, then you are  
10 taking the money directly out of the ILEC's pocket because  
11 they would lose the support for that line and that money  
12 would go to the CLEC.

13 In contrast, if we again assume the assumption  
14 is true that the wireless is an additional supported number,  
15 that does not in any way diminish the money that the ILEC  
16 receives from the Universal Service Fund. Both the CLEC  
17 designation and the wireless designation would require,  
18 under the statute, a public interest finding.

19 Q. Would you agree that the majority of the  
20 wireless customers of Mid-Missouri Cellular also have the  
21 landline phone?

22 A. I believe that to be the case.

23 Q. And you also claim in your testimony that  
24 designating Mid-Missouri Cellular an ETC will make it easier  
25 for customers in rural Missouri to choose telecommunications

1 services based on pricing, service quality, customer service  
2 and service availability. You've listed four items there  
3 and that's in your Surrebuttal and your Direct. Pricing,  
4 service quality, customer service and service availability.

5 Can you please address each of these  
6 individually and explain how exactly an ETC grant will  
7 improve a customer's ability to choose telecommunications  
8 service based on these items?

9 A. Well, let's take, for example, the testimony  
10 that Mr. Jones gave earlier. Let's fast-forward that  
11 situation to today. That -- Mid-Missouri Telephone Company  
12 came to the Public Service Commission to look to utilize  
13 wireless service to meet its carrier of last resort  
14 obligations. There's no obligation on the ILEC to do so.

15 Mid-Missouri Telephone could have simply told  
16 that prospective customer that they will put those  
17 facilities in and it will take a certain period of time to  
18 do it with no service available at all with respect to  
19 carrier of last resort.

20 Designating the wireless carrier as an ETC  
21 with carrier of last resort obligations would allow that  
22 potential customer the right to go on its own, without  
23 having to ask the ILEC to use what the ILEC's are deeming as  
24 a competitive service, to provide that service on an  
25 immediate basis with respect to the availability of wireless



1 service.

2 Q. Okay. So that's service availability. How  
3 about pricing? How does -- go ahead.

4 A. I'm sorry.

5 Q. I was going to say, how does pricing improve a  
6 customer's ability to choose telecommunications service?

7 A. Well, for example, you have to take a look at  
8 what the existing LEC subscriber is utilizing in terms of  
9 their wireless service and their landline service.

10 Even today where a lot of the Mid-Missouri  
11 Cellular customers still maintain a landline, those that  
12 have wireless plans that include bundled toll or LATA-wide  
13 local calling are utilizing their cellular phone even when  
14 they're sitting in their homes because that affords a much  
15 more economical alternative.

16 Designating Mid-Missouri Cellular as an ETC,  
17 in addition to the network changes and enhancements that  
18 will make the type services ubiquitous, which we'll talk  
19 about in-camera, what we're also doing here is we're  
20 allowing lifeline customers for the first time the  
21 opportunity to be able to go to a wireless service.

22 Mr. Dawson testified this morning all of the  
23 Mid-Missouri Cellular plans that are in place have the  
24 ability to utilize the USF support to bring the rate down to  
25 \$1.75. Mr. Dawson also testified to one of the unique rate

1 plans that will be available for lifeline qualified  
2 customers only.

3 Mr. Dawson was testifying to the lowest level  
4 plan, which is designed to be comparable to the dollars and  
5 cents that they are spending today with the ILEC, provide a  
6 comparable local calling scope with the ILEC and at a  
7 comparable price but also add mobility and add the ability  
8 to use that phone and have it on their person to make an  
9 emergency phone call wherever they are when the emergency  
10 occurs.

11 I mean, just -- just from a mobility  
12 standpoint, the ability for someone in need to have the  
13 communications device with them to be able to contact  
14 emergency as opposed to having to get back to the nearest  
15 landline phone, if they even know where that nearest  
16 landline phone is, is a tremendous public interest benefit.  
17 By extending ETC status, what we're doing is we're making  
18 these pricing plans available.

19 The other pricing plan that Mr. Dawson did not  
20 talk about is a \$10 pricing plan, again limited to lifeline  
21 customers, that takes the entire area where Mid-Missouri  
22 Cellular is is designated as an ETC and makes that the local  
23 calling area for those customers.

24 Q. And customer service -- how will the ETC grant  
25 improve a customer's ability to choose telecommunications

1 service based on customer service?

2 A. Well, in terms of customer service from the  
3 standpoint of the service that they receive from the  
4 network, we'll address that on an in-camera basis as well.

5 Q. And you claim the ETC designation will  
6 facilitate universal service in the Mid-Missouri Cellular  
7 proposed ETC area by creating incentives to ensure that  
8 quality services are available at just, reasonable and  
9 affordable rates; is that correct?

10 A. Not just incentives, but ensuring that that --  
11 that that can occur.

12 Q. Well, when you do refer to incentives, what  
13 incentives are you talking about?

14 A. Well, the -- the -- again, when we're going to  
15 talk about -- I think that ties in with the specific network  
16 deployment, which we will deal with in-camera.

17 Q. Okay. And you also claim that the ETC grant  
18 will increase the choices available to consumers. Other  
19 than the availability of the lifeline discount, what choices  
20 will consumers be able to make following ETC designation  
21 that they can't make today -- cannot make today?

22 A. Again, we will deal with that in-camera.

23 Q. And you also claim at page 7 of your  
24 Surrebuttal the FCC rules require carriers to route calls  
25 placed to 911?

1           A.       That's correct.

2           Q.       Doesn't this obligation exist even if the  
3 customer doesn't subscribe to cellular service but still has  
4 a working cell phone handset?

5           A.       The obligation to route a 911 call is  
6 ubiquitous.

7           Q.       And in your Surrebuttal you claim that  
8 Mid-Missouri Cellular is being forced to over-build its  
9 entire networks with new digital technology and will do so  
10 using CDMA technology. What happens to current customers  
11 who are not upgraded to CDMA?

12          A.       Well, again, just -- the -- the entire  
13 industry has done migrations from TDMA to alternate  
14 technologies. There was nothing inherently wrong with the  
15 TDMA technology. It did have some limitations that CDMA, or  
16 Codes Division Multiple Access, and the European Digital  
17 Standard had better access to data capabilities.

18                 But the problem that we ran into was that the  
19 nationwide carriers that were using the TDMA technology,  
20 which is AT&T Wireless and Cingular Wireless, unilaterally  
21 announced that they were going to migrate off of that  
22 technology to different technology.

23                 When that announcement came out, the equipment  
24 manufacturers for the TDMA equipment essentially announced  
25 that they would be discontinuing their ongoing development

1     for that technology and sun-setting even continued support  
2     for it.

3                     Ironically, Mid-Missouri Cellular's network  
4     provider is Nortel Networks, and Nortel Networks, to my  
5     understanding, did not have any TDMA networks in operation  
6     for either Cingular or AT&T, but nonetheless, advised that  
7     they were going to be discontinuing their support for that  
8     technology because, as a technology, without the support of  
9     the nationwide carriers, could no longer be developed and  
10    supported.

11                    What that means is that as all of the carriers  
12    have introduced new technologies, whether it be the original  
13    analog amps to TDMA or TDMA to an alternate or amps to a  
14    different technology, it's required the replacement of the  
15    handset that the subscriber uses.

16                    You have a lot of calling plans now, for  
17    example, that include a deeply subsidized handset and some  
18    of the calling plans even have promotions for free handsets.  
19    And to the extent that those are brought in, the  
20    customers -- there will be a churn to utilize those new  
21    handsets.

22                    But Mid-Missouri is not going to abandon its  
23    TDMA technology as long as there's -- it's economically  
24    viable to continue running it and as long as there are not  
25    regulatory restrictions that would require it to terminate

1       that service sooner.

2                       So, for example, Mid-Missouri Cellular still  
3       has customers that utilize analog service, what we commonly  
4       refer to as amps, the original cellular. Some of those  
5       customers don't want to go to TDMA digital, don't want to go  
6       to digital at all and Mid-Missouri Cellular is continuing to  
7       support the amps.

8                       In fact, Mid-Missouri Cellular has a legal  
9       obligation to continue to support that technology up until  
10      February, I believe it's 2008.

11              Q.       So --

12              A.       So it's not going to be a situation that as  
13      soon as the technology -- the new technology is introduced,  
14      all handsets will cease to operate. There will be  
15      incentives to get the customers to migrate. All new  
16      handsets will be sold on the new technology, but there will  
17      be -- through the normal churn of the handsets, the vast  
18      majority of the customers will migrate off until the point  
19      in time where they're no longer required to support it.

20              Q.       I'd like to turn and talk about study areas.  
21      If a competitive ETC wants ETC designation in an area that  
22      differs from the rural ILEC study area, do you agree that it  
23      requires a redefinition of the study area?

24              A.       No. It requires a redefinition of the service  
25      area. And this is a distinction that the FCC explains in

1 great detail in this order. The service area is where  
2 another ETC coming in would have to agree that they're going  
3 to provide coverage to that area.

4 But the FCC made it absolutely clear that the  
5 study area is separate and apart, that the study area can  
6 remain the study area that the ILEC has utilized in the  
7 past. And that's why they took a look at the cream  
8 skimming.

9 They want to make sure that by allowing this  
10 bifurcation of service area and study area, that they don't  
11 end up with someone coming in and picking off a population  
12 center only and not serving the rural areas. That was the  
13 basis upon which they denied NTELOS, because their service  
14 area was only the Waynesboro, Virginia population center.  
15 And the study area was a much larger that included the high  
16 costs.

17 So they were pulling off, in that one  
18 instance -- unintentionally, but nonetheless, they were  
19 pulling off only the low-cost portion of the service area as  
20 opposed to something that was more indicative of the average  
21 cost.

22 Q. So isn't it true that what the FCC was doing  
23 in the order, they were actually redefining the study area  
24 for Virginia Cellular alone and they weren't changing that  
25 for the ILEC?

1           A.       No. Again, they were -- they were -- they did  
2 not get into the study area. The Virginia Cellular, under  
3 the current USF funding, there's not a separate study area  
4 established for the wireless to justify its own cost. The  
5 wireless is bound to use the costs of the ILEC as the ILEC  
6 study area is defined.

7                   What the Commission pulled out and submitted  
8 to the Virginia Public Service Commission for their consent  
9 was the ability to designate those areas as distinct service  
10 areas, having found that there was not a situation of cream  
11 skimming involved by pulling out just those service areas  
12 from the study areas.

13           Q.       Would you agree that in the case of an area  
14 served by a rural telephone company, that service area means  
15 such company's study area unless and until the Commission in  
16 the state establish a different definition?

17           A.       Yes. I would agree that what this Commission  
18 would essentially be doing is saying that in this particular  
19 instance, for example, Concordia and the portions of the  
20 wire centers of Spectra that are in our market, that those  
21 would be deemed to be a separate service area for purposes  
22 of another ETC coming in and looking to provide service to  
23 those areas, but the Commission would not have to make any  
24 change in the study area for Spectra.

25           Q.       In order for this Commission to make that



1 definition, that redefinition, do you agree the Congress  
2 intended for both the FCC and the states to establish the  
3 new definition?

4 A. In terms of defining the service area?

5 Q. Correct.

6 A. I -- I think that the Congress intended the  
7 state commissions to do that service. The FCC doing it in  
8 the Virginia Cellular case in the first instance because  
9 Virginia had the declined jurisdiction over AT&T, but even  
10 then the FCC asked that its order be treated by the State of  
11 Virginia as a request to modify that service area but not  
12 the study area.

13 Q. So the FCC made the redefinition and then they  
14 are petitioning the Virginia Public Utility Commission or  
15 Public Service Commission to agree with their redefinition.  
16 Correct?

17 A. The FCC has requested that the State of  
18 Virginia make that redefinition.

19 Q. And is that request which, in essence,  
20 requires both the FCC and the states to agree upon the  
21 definition, is that a requirement under the  
22 Telecommunications Act?

23 A. A requirement on the state?

24 Q. Requirement on both the FCC and the states  
25 that both have to agree on the new definition.

1           A.       Yes.

2           Q.       And you testified to FCC's Rule 54.207 in your  
3 testimony. And is that rule how the FCC -- laid out how the  
4 FCC would petition the states if they had to change the  
5 definition and vice-versa how the states would petition the  
6 FCC if they had changed the definition?

7           A.       I believe so.

8           Q.       Mid-Missouri Cellular's application appears to  
9 suggest that this Commission can redefine a rural  
10 telecommunications cellular area without petitioning the  
11 FCC. Is that your position?

12          A.       Yes. The service area, not the study area.

13                 MR. POSTON: That's all I have except for the  
14 in-camera questions.

15                 JUDGE DIPPELL: All right then. We'll go  
16 ahead then at this time and go into the in-camera session.  
17 So I'd ask everyone who's not available to hear highly  
18 confidential information to leave the room.

19                 (At this time, an in-camera session was held,  
20 which is contained in Volume No. 3, pages 166 through 188 of  
21 the transcript.)  
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1 JUDGE DIPPELL: Okay. Then we can continue  
2 with cross-examination and I believe Alma is next. Do you  
3 have questions, Mr. England?

4 MR. ENGLAND: Yes, I do, your Honor.

5 JUDGE DIPPELL: And since I suspect  
6 Mr. England has several questions for Mr. Kurtis, I think  
7 this would be a good time to go ahead and take a break.  
8 We'll come back at 25 till, a 15-minute break. Go off the  
9 record.

10 (A recess was taken.)

11 JUDGE DIPPELL: Okay. Let's go ahead and go  
12 back on the record.

13 Before Mr. England comes up, I just wanted to  
14 ask you all about scheduling. We were trying to figure out  
15 a way to somehow make this more convenient for the  
16 Commissioners with tomorrow's agenda. And I'm just  
17 wondering if you have witnesses that would have scheduling  
18 issues tomorrow or anything, out-of-town people?

19 MR. STEWART: I think we're fine.

20 MR. ENGLAND: Our witness I think is scheduled  
21 through tomorrow afternoon. I'll just have to check. He's  
22 tending to something right now. Would we get started at  
23 8:30 or would you anticipate postponing it until after  
24 agenda?

25 JUDGE DIPPELL: That's what the Commissioners

1       and I were kind of discussing and debating the schedule  
2       during the break, and I just wanted to see if you all would  
3       have any conflicts. And my sense is that if we finish with  
4       Mr. Kurtis today, that we wouldn't have more than a half day  
5       to go tomorrow. Is that the sense of counsel or --

6                   MR. DEFORD: Sounds good to me.

7                   JUDGE DIPPELL: Do you think we're still going  
8       to need three days?

9                   MR. ENGLAND: It's definitely my hope we'll  
10      wrap it up tomorrow. When I don't know. And if we have to  
11      break for agenda, that adds another --

12                  JUDGE DIPPELL: We'll contemplate it.

13                  MR. DEFORD: My strong preference is to finish  
14      tomorrow since I have another hearing on Friday.

15                  MR. ENGLAND: The only thing I might ask,  
16      depending on when we wrap up Mr. Kurtis where we are, we  
17      might want to move Schoonmaker a little in front of Staff  
18      witness possibly. Sondra reminds me I think he's got to hit  
19      the road by 3:00 or 4:00 tomorrow. This all depends on  
20      where we are when we wrap up with Mike.

21                  JUDGE DIPPELL: Let's get started and if we  
22      can get it wrapped up, maybe we can get the next witness  
23      started today too. So you can go ahead, Mr. England.

24                  MR. ENGLAND: Thank you.

25      CROSS-EXAMINATION BY MR. ENGLAND:

1           Q.       Good afternoon, Mr. Kurtis.

2           A.       Good afternoon.

3           Q.       I want to jump around for a minute.  There

4           were some questions that have been asked either on

5           cross-examination or I think as a result of your updated or

6           corrected testimony that I had a couple of additional

7           questions about.

8                    You may have said this, I apologize if I'm

9           being redundant, but do you agree that in light of this

10          recent FCC decision in the Virginia Cellular case that state

11          commissions certainly have the ability to condition grants

12          of ETC status on adherence to certain quality of service

13          rules, for example?

14          A.       I think the Commission identified those as one

15          example.

16          Q.       My question though is, state commissions as

17          well as the FCC Commission.

18          A.       I think a state commission would be perfectly

19          within its rights to impose these similar restrictions on

20          the state level.

21          Q.       Would they be perfectly within their rights to

22          impose different quality of service standards than those

23          implemented by the FCC in the Virginia Cellular case?

24          A.       I don't know that they -- that they would or

25          would not.  I think the test would have to look and see what

1       those specific requirements were and whether or not they  
2       were in conjunction with the use of the USF funds that were  
3       being put out as a result of the ETC. I think those  
4       probably could have some latitude on. I don't think that,  
5       for example, there would be the ability to do rate  
6       regulation, which would be something that is precluded.

7               Q.       Okay. But they do have some latitude, I  
8       think, if I heard your answer correctly?

9               A.       I would read this order as saying there would  
10      be some latitude as long as this is the type information  
11      they were trying to -- to enable them to make their  
12      certification.

13              Q.       I guess stated another way, they're not bound  
14      by the same, if you will, quality of service standards that  
15      the FCC imposed in the Virginia Cellular case?

16              A.       I think that the FCC standards gave good  
17      guidance of the type of requirements that they could put in.  
18      If they were to put something else in, I think you would  
19      have to look at the underlying purpose and what the specific  
20      quality of service requirement was.

21              Q.       Until you see that though, they're not bound  
22      by what the FCC did, are they, insofar as quality service?

23              A.       I think the FCC provides guidance of the  
24      degree of latitude that they have.

25              Q.       I'm not sure if I got an answer to my

1 question. Must they follow those or do they have some  
2 latitude to impose others?

3 A. There may be latitude to impose others  
4 depending upon what it was that was imposed.

5 Q. Okay. And there's no requirement that states  
6 impose the CTIA recommended quality of service standards  
7 that I believe were made an exhibit in this case; is that  
8 right?

9 A. That's -- that's correct.

10 Q. One of the earlier witnesses for Mid-Missouri  
11 Cellular, I think it was Mr. Dawson, referred some questions  
12 regarding LNP to you.

13 A. Okay.

14 Q. I think you're well aware of the fact that  
15 Mid-Missouri Cellular has issued requests to Citizens and  
16 Alma to implement LNP?

17 A. Correct.

18 Q. And let me just take them one at a time. With  
19 respect to Citizens, where does Mid-Missouri Cellular want  
20 them to port that number to, if you'll pardon my grammar?

21 A. Mid-Missouri Cellular and Citizens have an  
22 interconnection agreement that specifies how traffic between  
23 the two carriers is to be delivered. In this particular  
24 case, the point of interconnection I believe is in Citizens'  
25 parking lot.

1           Q.     And that's where you would expect Citizens to  
2     deliver that ported number and the associated call?

3           A.     That's correct.

4           Q.     How about Alma?

5           A.     There is not an interconnection agreement with  
6     Alma at this time. What the FCC order has indicated is that  
7     the delivery of the call, absent interconnection agreement,  
8     is essentially as -- as long as the call is not being routed  
9     outside of the LATA, that the local exchange carrier is  
10    responsible for determining the routing of the call.

11          Q.     So it's up to Alma to get that ported number  
12    and call to Mid-Missouri Cellular; is that right?

13          A.     Absent an interconnection agreement, correct.

14          Q.     Which we do not have, at least presently?

15          A.     That's correct.

16          Q.     Where would Mid-Missouri Cellular want that  
17    call ported to -- or number and call ported to?

18          A.     I would presume that it would route to  
19    Mid-Missouri Cellular similar to how Alma would route any  
20    other call to, say, for example, a Mid-Missouri number that  
21    was rated to Higginsville.

22          Q.     Which would currently be a toll call. Right?

23          A.     Alma would probably use the toll network.

24          Q.     Okay. And charge their customer an associated  
25    toll call for making that call to the ported number?

1           A.       To call a -- no, not to the ported number, no.

2           Q.       Okay. I think you know where I'm going with

3           this. And that is, how does Alma -- or who, excuse me,

4           first of all, is responsible for paying the cost of getting

5           that ported number from Alma to the point of interconnection

6           with Mid-Missouri Cellular at Higginsville?

7           A.       Very good question. It's a question that the

8           FCC has not yet addressed. What -- in its -- and it's an

9           issue that really is separate and apart from the ETC

10          designation in that any ported number is going to face that

11          same issue.

12          Q.       Excuse me. Where the wireless carrier doesn't

13          have a point of presence or a direct connection in the local

14          exchange carrier's rating center or --

15          A.       That's correct. In fact, if you go back and

16          you look at the FCC's record in the wireless local number

17          portability case, you will notice that Mid-Missouri Cellular

18          actually filed comments seeking the opposite holding from

19          the FCC.

20                    Mid-Missouri Cellular said that as a condition

21          to portability, the Commission should require facilities and

22          numbering resources within the rate center. The FCC said

23          that they would not go that particular route.

24                    So at this point in time the industry is bound

25          by what the Commission has determined. Mid-Missouri



1 Cellular is less of an issue for many of the carriers  
2 because unlike the nationwide carriers, we do have multiple  
3 points of interconnection in our market.

4 Q. Gets me back to my question I'm not sure I got  
5 an answer to. Who would you expect to be a responsible for  
6 bearing the costs of porting the number from Alma's rate  
7 center in Alma, Missouri to your point of interconnection in  
8 Higginsville?

9 A. What the FCC said is that that issue was still  
10 teed up before them and that they have not resolved that.  
11 At this point in time the only thing that we know is that  
12 that call would be rated as a local call because the ported  
13 number -- even where the wireless carrier does not have  
14 their own numbering resources, the rate center remains  
15 unchanged for the ported number.

16 So it would be a call from -- let's say a  
17 non-porter LEC-originated Alma call to a ported former Alma  
18 number within the same rate center, which I believe Alma's  
19 tariff would define as a local call to Alma's customer.

20 Q. And the issue then of the cost associated with  
21 getting that call -- that actual call, if you will, from  
22 Alma to your point of interconnection in Higginsville is  
23 still an open question as far as you know --

24 A. The --

25 Q. -- as far as you're concerned?

1           A.       The Commission has indicated that that is  
2 something that they are going to deal with in the  
3 inter-carrier compensation issue.

4           Q.       If they don't deal with it, Alma and  
5 Mid-Missouri Cellular are going to have to deal with it,  
6 aren't they?

7           A.       Well, Alma and Mid-Missouri Cellular may well  
8 be able to negotiate a direct interconnection agreement or  
9 an agreement whereby a common tandem connection, if there is  
10 one, either is or could be established that would deal with  
11 another way to route the call. I mean, the parties would  
12 have the ability to negotiate it.

13                   What the Commission has said is absent that,  
14 it is the -- the way that the LEC gets the call and how the  
15 compensation is paid for transporting that call at this  
16 point in time is something the FCC has left to the LEC. And  
17 that, of course, is independent of ETC status or not.

18           Q.       Again, I'm not sure I got an answer to my  
19 question. But that's something that we're going to have to  
20 resolve between Alma and Mid-Missouri Cellular if the FCC  
21 doesn't give us any guidance before you want that number  
22 ported?

23           A.       I think absent FCC guidance, if the parties  
24 can-- cannot come up with a mutual resolution, then it would  
25 be Alma's responsibility to get that call delivered.

1           Q.       And they'd be responsible for bearing that  
2       associated cost?

3           A.       The Commission has not indicated how they're  
4       going to do those costs, what would be the appropriate means  
5       to recover those costs, whether it's something that they  
6       could add on across the board as -- you know, they are  
7       allowed to add a surcharge onto their bill to recover their  
8       local number portability costs. The Commission really has  
9       not addressed that.

10          Q.       At least for the time being, that surcharge  
11       they're allowed to implement at this point in time doesn't  
12       deal with transport costs for transporting calls outside the  
13       rate center of the originating LEC. Right?

14          A.       At this point in time they're not transporting  
15       any of those type calls.

16          Q.       And the surcharge doesn't deal with those  
17       calls to recover those costs. Correct?

18          A.       At this time, correct.

19          Q.       Thank you.

20                    What other companies -- excuse me, local  
21       exchange carriers -- landline local exchange carriers does  
22       Mid-Missouri have a direct connection with other than  
23       Citizen in its MS-- RSA, excuse me, 7?

24          A.       Southwestern Bell Telephone Company and Sprint  
25       and Mid-Missouri Telephone.

1           Q.       And then that would leave CenturyTel. Any  
2 others that you don't -- and Alma, excuse me -- that you  
3 don't have a direct connect with but whom you overlay?  
4           A.       We overlay portions of I believe Chariton --  
5 one of -- a portion of Chariton Valley's exchange. If you  
6 look up in that map in the extreme northeast portion of our  
7 mark-- northeast --  
8           Q.       Oh, up here.  
9           A.       The dark green area, that one corner I believe  
10 is Chariton Valley. The brown area up in the northwest I  
11 believe is Green Hills. And then that area down to the  
12 southwest I believe is Cass.  
13           Q.       Cass County. Do you have interconnection  
14 agreements with any of those?  
15           A.       No.  
16           Q.       Okay. Excuse me. Direct interconnection?  
17           A.       No.  
18           Q.       Okay.  
19           A.       We also have not served local number  
20 portability requests on those four carriers because the  
21 Commission put two caveats. One of them was not only -- was  
22 the ability to have the ported number delivered within the  
23 same LATA.  
24                    The second caveat was that the wireless  
25 carrier actually provide cellular coverage to the rate

1 center. And we have interpreted the language, which is a  
2 little bit ambiguous, to be the V and H coordinates of the  
3 actual rate center itself. So those four exchanges, the  
4 actual rate center V and H coordinates is not in an area  
5 served my Mid-Missouri Cellular, so at this time we have not  
6 served billing requests on those four.

7 Q. Do you know if other wireless carriers share  
8 your same opinion with respect to coverage of the V and H  
9 coordinates of the rate center?

10 A. I don't know. But that is a condition in the  
11 Commission record.

12 Q. Although the V and H --

13 A. Oh, the V and H, no, I don't know.

14 Q. Okay. In your updated testimony you talked  
15 about the new -- or the most recent FCC decision in Virginia  
16 wireless case. Are you aware of any state decisions that  
17 have recently been issued denying ETC status to rural  
18 wireless or rural CLEC applicants?

19 A. I'm not familiar with any other than the Utah  
20 one.

21 Q. Okay. In your Surrebuttal Testimony, I  
22 believe it's page 12, beginning at line 6, the answer. Do  
23 you see that --

24 A. Yes.

25 Q. -- begins, While it is clear.

1                   You indicate -- and I'm going to paraphrase  
2                   here -- but that the precedential effect of a grant of ETC  
3                   status to Mid-Missouri Cellular will be extremely narrow in  
4                   this case.

5                   And I believe -- again, I'm paraphrasing --  
6                   that's essentially because MMC is a strictly rural carrier  
7                   providing service to seven counties in midwestern, if you  
8                   will, Missouri and the other wireless carriers with which it  
9                   competes in this area are all nationwide carriers. Is that  
10                  the distinction you draw for purposes of your statement that  
11                  this would have very narrow precedential effect?

12                 A.       Essentially, yes.

13                 Q.       Okay. And I think it's -- in a related vein,  
14                  at page 3 of your Surrebuttal, beginning at lines 1 through  
15                  4 there, you say, MMC operates exclusively in Missouri.  
16                  Accordingly, there is absolutely no prospect that  
17                  contributions to MMC authorized by this Commission's grant  
18                  of ETC status will be used by MMC to support services  
19                  provided in other states.

20                 A.       Correct.

21                 Q.       That would distinguish MMC from nationwide  
22                  carriers. Correct?

23                 A.       Correct.

24                 Q.       And in that nationwide carriers may be able to  
25                  use ETC status and USF funds in Missouri to fund services

1 and facilities outside of Missouri?

2 A. They're not supposed to do that, but there  
3 would have to be an additional issue that would need to be  
4 determined to make sure that the support money that is being  
5 garnered in the Missouri ETC area is, in fact, spent on  
6 supporting those services in that ETC designated area.

7 Q. Well, wouldn't the Commission also be  
8 concerned, even though you operate only in Missouri, with  
9 MMC -- making sure rather that MMC only spends its USF funds  
10 on USF supported services in Missouri?

11 A. Oh, absolutely. But what the -- the  
12 distinction that we were trying to draw here is that if a  
13 nationwide carrier were to come in and say, You granted  
14 Mid-Missouri Cellular this with -- with whatever provisos,  
15 therefore, you have to grant it to us, the additional items  
16 that the Commission would have to satisfy with is that the  
17 money was going to be spent in the ETC designated area, that  
18 it was not going to be used to subsidize services that are  
19 provided in a nearby urban area or any area outside the ETC.

20 To my knowledge, there are only two additional  
21 wireless carriers in the entire state of Missouri that would  
22 fit squarely within the fact situation of Mid-Missouri  
23 Telephone -- Mid-Mo Cellular.

24 Q. Let me ask a hypothetical question. If  
25 Mid-Missouri Cellular were to be acquired by a nationwide

1 carrier, would it be your opinion that ETC status, if  
2 granted to Mid-Missouri Cellular, should be automatically  
3 revoked in that case?

4 A. I think the Commission might have to make an  
5 additional determination or require additional reporting to  
6 address the type issues that are not required here. Whether  
7 or not the Commission would then decide to revoke the status  
8 or not, I don't think it would be an automatic revocation,  
9 but I think the Commission would certainly need to satisfy  
10 itself that the basis upon which it granted the ETC status  
11 remained applicable.

12 Q. Would it be appropriate for the Commission to  
13 condition ETC status on Mid-Missouri Cellular remaining a  
14 strictly rural carrier operating in the seven counties  
15 comprising Missouri RSA No. 7?

16 A. I think it would -- there would be nothing  
17 wrong with this Commission saying that the determination of  
18 ETC status applies only to Mid-Missouri Cellular in this  
19 particular seven-county area. And that if there was a  
20 change in the underlying fact situation, that additional  
21 certification may be required. Whether it's a full-blown  
22 hearing or not, I'm not -- I really haven't given it any  
23 thought.

24 But the Commission would always retain  
25 jurisdiction, no matter what happened, to be able to come



1 back and actually look at how the money is really being  
2 spent. And that's whether those conditions were expressly  
3 put on this authorization or not. And this Commission does,  
4 without a doubt, retain the authority over any ETC and  
5 including the ILECs to revoke that certification.

6 Q. So a condition that granted ETC status only to  
7 Mid-Missouri Cellular insofar as it provides service only in  
8 Missouri RSA 7 might be an appropriate condition?

9 A. Well, it's the -- in their ETC designated  
10 area.

11 Q. And that ETC status would have to be requested  
12 again if Mid-Missouri Cellular became the subject of an  
13 acquisition by another carrier?

14 A. The Commission could certainly take that  
15 approach.

16 Q. Okay.

17 A. The only thing that I do want to clarify is  
18 the seven-county Missouri RSA 7, plus Ray County, which is  
19 technically not a part of RSA 7, so any restrictions or any  
20 conditions should be tied to the ETC area and not the  
21 Missouri 7 RSA designation.

22 Q. Okay. I want to ask you a couple of questions  
23 about this anticipated conversion from TDMA to CDMA  
24 technology. And I believe you begin that discussion at  
25 page 14, line 19 of your Surrebuttal Testimony. Do you see

1       that?  Actually, the question begins on line 19, but your  
2       answer begins on 22.

3               A.       Yes.

4               Q.       Okay.  Now, this conversion from CDMA to  
5       TDMA -- excuse me, I got it reversed.  This conversion from  
6       TDMA to CDMA was not discussed or mentioned in your Direct  
7       Testimony was it, sir?

8               A.       No.

9               Q.       Nor in the Direct Testimony of Mr. Dawson, who  
10       also filed Direct Testimony?

11              A.       That's correct.  Not by technology name.

12              Q.       And when we submitted a data request on behalf  
13       of Citizens to Mid-Missouri Cellular asking for specific  
14       plans for infrastructure improvements and new technologies  
15       that MMC intends to introduce in rural markets if it obtains  
16       ETC status, MMC did not identify this conversion from TDMA  
17       to CDMA, did it, sir?

18              A.       Mid-Missouri Cellular answered the data  
19       request, and I believe the specific answer was if it obtains  
20       ETC status, MMC will use any high-cost universal support  
21       funds -- service fund support in accordance with Section  
22       254(e) of The Communications Act, Ninth Report and Order  
23       citation.

24                      Accordingly, MMC's high-cost support will be  
25       used to provide, maintain and upgrade facilities and

1 services for which the support is intended.

2 The CDMA and TDMA is one such example.

3 Q. And so in response to the request for specific  
4 plans, your answer is, no, you did not enumerate or list the  
5 conversion from TDMA to CDMA. Correct?

6 A. We believe we responded to the specific  
7 question that the conversion from TDMA to CDMA is an example  
8 of that technology.

9 Q. But it was not mentioned in your data request  
10 response, was it, sir?

11 A. No. In response to the data request, when we  
12 were looking at this, we candidly at the time of the data  
13 request thought that you were referring to technology from  
14 the standpoint of whether we were doing wireline technology  
15 or wireless technology.

16 We didn't read that question to say you wanted  
17 to know about a particular protocol or interface or those  
18 items. We believe our answer was correct at the time that  
19 it was given. We believe that the Surrebuttal Testimony  
20 expands upon that information and is in direct response to  
21 assumptions that were made in the Rebuttal Testimony.

22 Q. I'm still not sure I got a response to my  
23 question. You did not mention this conversion to CDMA in  
24 response to our data request, did you, sir?

25 A. No, we did not.

1                   MR. ENGLAND: May I have that marked as an  
2                   exhibit, please?

3                   JUDGE DIPPELL: Yes. The next exhibit number  
4                   is 13.

5                   (Exhibit No. 13 was marked for  
6                   identification.)

7                   MR. ENGLAND: I'm sorry. What number did we  
8                   give it?

9                   JUDGE DIPPELL: Thirteen.

10                  Go ahead. Thank you.

11                  BY MR. ENGLAND:

12                  Q.       Mr. Kurtis, I've handed you what's marked for  
13                  purposes of identification as Exhibit 13, what I hope you  
14                  will confirm is an accurate -- or copy of our data request  
15                  and you response, No. 16?

16                  A.       Yes.

17                  Q.       Thank you.

18                  MR. ENGLAND: I'd offer that into evidence at  
19                  this time, your Honor.

20                  JUDGE DIPPELL: Is there any objection to  
21                  Exhibit No. 13?

22                  Then I will admit Data Request No. 16 that's  
23                  marked as page 17 of 20 of MMC responses to data requests of  
24                  Citizens Telephone Company, Higginsville. And I'll receive  
25                  that into the record.

1 (Exhibit No. 13 was received into evidence.)  
2 BY MR. ENGLAND:  
3 Q. Mr. Kurtis, we also asked for copies of MMC's  
4 business plans. And your response generally was that there  
5 were no financial business plans; is that correct?  
6 A. That is correct.  
7 MR. ENGLAND: Your Honor, may I have another  
8 exhibit marked?  
9 JUDGE DIPPELL: Yes. Number 14.  
10 (Exhibit No. 14 was marked for  
11 identification.)  
12 JUDGE DIPPELL: Go ahead when you're ready,  
13 Mr. England.  
14 MR. ENGLAND: Thank you.  
15 BY MR. ENGLAND:  
16 Q. Mr. Kurtis, I've handed you an exhibit that's  
17 been marked for purposes of identification as Exhibit 14.  
18 And would you confirm that that's an accurate copy of the  
19 data request we submitted and the response of Mid-Missouri  
20 Cellular?  
21 A. Yes.  
22 Q. Thank you.  
23 MR. ENGLAND: I'd offer that into evidence as  
24 well, your Honor.  
25 JUDGE DIPPELL: Is there any objection to

1 Exhibit No. 14?

2 Then I will receive Exhibit No. 14, response  
3 of Mid-Missouri Cellular to additional data request of Alma  
4 Telephone Company, Data Request No. 20, into the record.

5 (Exhibit No. 14 was received into evidence.)

6 MR. ENGLAND: Thank you.

7 BY MR. ENGLAND:

8 Q. Mr. Kurtis, is it fair to say that given the  
9 response to Data Request No. 20, that there are no written  
10 plans to convert from TDMA to CDMA?

11 A. I believe I testified that I did not possess  
12 any financial business plans as requested, and that would  
13 include a financial business plan of the company for that  
14 conversion.

15 Q. And I think when I clarified through counsel  
16 when you said you were not in possession, neither was MMC.  
17 Correct?

18 A. I don't know what you clarified through  
19 counsel.

20 MR. ENGLAND: If I may, I'd like counsel to at  
21 least indicate that confirmation on the record, please.

22 MR. DEFORD: I can confirm that.

23 MR. ENGLAND: Thank you.

24 BY MR. ENGLAND:

25 Q. And to the extent that you were given

1 financial numbers, and I don't want to get into the  
2 specifics from the in-camera proceeding, regarding cost to  
3 convert to E-911 and cost to convert to CDMA technology and  
4 what have you, is it fair to say that there are no financial  
5 analyses showing the feasibility of doing that either on an  
6 as-is basis or on an ETC basis, assuming grant of ETC status  
7 and USF funds?

8 A. I do not have those projections in my  
9 possession.

10 Q. Okay. Nor have you seen any?

11 A. No.

12 Q. So as far as this record is concerned for  
13 purposes of identifying or determining the financial  
14 feasibility of converting from TDMA to CDMA for Mid-Missouri  
15 Cellular, there is no evidence in this record that would  
16 tell us it's presently able to do so with or without ETC  
17 funds. Correct?

18 A. I believe that I have testified what my belief  
19 is on that in-camera.

20 Q. Okay. But there's certainly no --

21 A. I believe --

22 Q. -- written plan?

23 A. I believe that I have testified what my belief  
24 on that is in-camera. I do not have in my possession a  
25 written financial business plan.

1 Q. Okay. Such plan would identify sources of  
2 revenue, other expenses, etc., right, if it were to be done?  
3 It would look at the total operations of the company, in  
4 other words?

5 A. I don't have any such plan. I don't know what  
6 it would include.

7 Q. Fair enough. Thank you, sir.

8 MR. ENGLAND: I don't have any other questions  
9 of the witness.

10 JUDGE DIPPELL: Thank you.

11 Mr. Stewart, do you have questions?

12 MR. STEWART: Yes, I do. Thank you.

13 CROSS-EXAMINATION BY MR. STEWART:

14 Q. Good afternoon, Mr. Kurtis.

15 A. Good afternoon.

16 Q. I'm going to ask you a few questions about the  
17 actual application that Mid-Missouri Cellular has filed with  
18 the Commission. I assume you don't have one with you?

19 A. That's correct.

20 MR. STEWART: Counsel, would you happen to  
21 have one that he could refer to?

22 BY MR. STEWART:

23 Q. As I mentioned, I'd like to ask you a few  
24 questions about the application itself that was filed on  
25 June 2nd, 2003. I'm assuming, given some of the answers



1       you've -- or earlier testimony, that you actually helped  
2       Mr. DeFord in the preparation of this application?

3               A.       That's correct.

4               Q.       So you are familiar with the statements and  
5       the allegations contained in the application?

6               A.       That's correct.

7               Q.       Has Mid-Missouri Cellular filed or attempted  
8       to file a substitute or amended application since it was  
9       first filed on June 2nd?

10              A.       I don't believe so.

11              Q.       Is Spectra a rural telephone company as that  
12       term as defined by Section 153, subsection 37 of The  
13       Telecommunications Act?

14              A.       Referring specifically to Spectra, I believe  
15       they are.

16              Q.       So Spectra's wire centers or exchanges would  
17       be considered rural?

18              A.       I believe so.

19              Q.       Do you know what Spectra's study area is?

20              A.       Only from Mr. Martinez' testimony.

21              Q.       I'd like to direct your attention to  
22       Appendix E of the application, which is entitled Appendix E,  
23       nonrural wire centers. About at the middle of the page  
24       there's a list that says, Spectrum Communications Group,  
25       parenthesis, GTE, end parenthesis, and then you list eight

1 exchanges. Have you found it?

2 A. Not yet. I'm sorry. Which appendix?

3 Q. Toward the back. It's Appendix E.

4 A. Yes.

5 Q. I guess my question is, is Appendix E with  
6 regard to Spectrum Communications Group, parenthesis, GTE  
7 and the eight exchanges listed, is that an accurate  
8 statement? And I'll make it easy. It's not Spectrum. I  
9 mean, we'll both agree to that. But, otherwise, is that an  
10 accurate representation and accurate statement?

11 A. I believe we have clarified this in our  
12 testimony with respect to Spectrum -- this is actually two  
13 different situations. We have the Spectra Communications  
14 and we have the CenturyTelephone.

15 With respect to Harrisburg, I believe that  
16 that was incorporated into the Columbia. And with respect  
17 to Prairie Home, Rocheport and Wooldridge, those are not  
18 Spectrum Communications Group, but those are a  
19 CenturyTelephone of Missouri I believe. And those, as  
20 confirmed by Mr. Martinez' testimony, are nonrural.

21 Q. Okay. But Appendix E as filed and as  
22 currently part of this proceeding is inaccurate?

23 A. And we did correct it in our Direct Testimony.

24 Q. It's corrected in your testimony?

25 A. Yes.

1           Q.       Let's move to page 9 of the application at the  
2       top. The first two sentences, are those sentences accurate?

3           A.       I believe that the substance is correct, that  
4       the Commission may designate MMC as an ETC in the nonrural  
5       wire centers. And I believe I corrected the Appendix E in  
6       the Direct Testimony and again here on the stand. And to  
7       the extent that MMC serves only a portion of the wire center  
8       listed in Appendix E, we request ETC designation in that  
9       portion of the wire center where we provide service.

10          Q.       Okay. So your testimony is, if I understand  
11       it, that your Direct Testimony corrected that part of the  
12       application?

13          A.       Either the Direct Testimony or the Surrebuttal  
14       I believe did.

15          Q.       Going to the next paragraph, first sentence  
16       that states, In an area served by a rural telephone company,  
17       the FCC rules define service area to mean the LEC study area  
18       unless a different service definition is established for  
19       such company.

20                 Is that statement accurate?

21          A.       As clarified by the January 22nd order, yes.

22          Q.       Okay. Who establishes a different service  
23       area definition?

24          A.       Primarily this Commission would.

25          Q.       Continuing on, on the same paragraph on page 9

1       where you state that the Commission may designate  
2       Mid-Missouri Cellular as an ETC in the rural LEC study areas  
3       of Alma and Citizens if it finds such a designation to be in  
4       the public interest, isn't it true that the Commission must  
5       engage in a public interest analysis before any -- and I  
6       mean any, not just Alma and Citizens -- ETC can be  
7       designated to serve within a rural LEC service area?

8               A.       Before any ETC, correct.

9               Q.       I thought that's what you meant. I just  
10       wanted to clarify.

11              A.       Yes.

12              Q.       Okay. Moving onto the next paragraph on  
13       page 9, first sentence, MMC is licensed by the FCC to serve  
14       only a portion of the study areas of five rural telephone  
15       companies that provide service in Missouri.

16                      Is that an accurate statement?

17              A.       I believe so.

18              Q.       That is an accurate statement?

19              A.       Yes.

20              Q.       Would you please read into the record from the  
21       application the next four sentences starting from where we  
22       just left off and ending in the second sentence of the first  
23       full paragraph on page 10?

24              A.       MMC, however, is voluntarily excluding from  
25       the area in which it seeks ETC designation the partial study

1 areas of four of those rural telephone companies; namely,  
2 ALLTEL, Cass Telephone Company, Chariton Valley Telephone  
3 Company, and Green Hills Telephone Company.

4 Even though these partial areas are within  
5 MMC's FCC licensed service area as depicted in Appendix D  
6 hereto, accordingly, MMC's instant application breaches no  
7 statutory or regulatory compliance issues with respect to  
8 these partial study areas. The fifth rural telephone  
9 company where MMC's FCC license covers only a portion of the  
10 studies -- of the company's study areas, Mid-Missouri  
11 Telephone Company, MMC and MMTC, however, are affiliates.

12 Q. That's correct. Where's Spectra mentioned  
13 either on page 9 or on the top of page 10?

14 A. It is not mentioned there at all.

15 Q. So back to page 9 when you say MMC is licensed  
16 by the FCC to serve only a portion of the study areas of  
17 five rural telephone companies, it's not six rural telephone  
18 companies?

19 A. It would be six.

20 Q. Okay. So you're going to amend your previous  
21 answer that that was a correct --

22 A. Yes, I would.

23 Q. Okay. Well, let me ask you more of a  
24 substantive question about MMC's voluntarily excluding the  
25 other rural carriers. So I understand this right, you would

1 not exclude the partial study areas of Spectra. And you  
2 have attempted to amend your application either in testimony  
3 and here today to make sure that Spectra's partial exchanges  
4 in Lawson and Braymer, Kingston are included in your  
5 application; is that correct?

6 A. That's correct.

7 Q. Well, if you won't exclude Spectra's partial  
8 study areas, then would you agree with me that to quote your  
9 application, that keeping Spectra's partial study area in  
10 your request, quote, raises statutory and regulatory  
11 compliance issues?

12 A. I think it would require the Commission to  
13 make the determination that we discussed before, that those  
14 would be a separate service area for ETC purposes and that  
15 it was not a cream skimming, and the analysis of that was in  
16 our testimony as well.

17 Q. Okay. So you have voluntarily excluded some  
18 rural carriers with partial service areas, but in Spectra's  
19 case, even with the regulatory compliance issues, you have  
20 included them in your request?

21 A. No. What we did is we didn't want to be in a  
22 situation where there was a question on cream skimming, if  
23 you will. The situation that we had is Concordia is in our  
24 particular market, which is a noncontiguous service area  
25 which is a part of the Spectra statewide study area.

1                   What we were concerned is that if we decided  
2           to only serve the one portion of Spectra's study area that's  
3           within our market, that that would be -- open us up to a  
4           question of why did we pick only that particular portion  
5           instead of all of Spectra's market. We were not trying to  
6           cream skim Concordia and exclude other parts of Spectra's  
7           market, partial exchanges that were in our market.

8           Q.       Okay.

9           A.       In contrast, the other four that we did  
10          exclude do not have any of their complete wire centers in  
11          our market.

12          Q.       Okay. Thank you for the explanation. Bottom  
13          line is concordia. That's why did you it?

14          A.       Correct.

15          Q.       And I believe Mr. Poston asked you some  
16          questions about the difference between Mid-Missouri Cellular  
17          and the national carriers. And you referenced that one of  
18          the differences is that the national carriers target or put  
19          their cell sites -- and I think you used Verizon as an  
20          example -- along major highways?

21          A.       The Verizon example was only two cell sites in  
22          RSA --

23          Q.       Okay.

24          A.       -- 7.

25          Q.       Is there a major highway bisecting the

1 Concordia exchange?

2 A. Interstate 70 is in that proximity. I -- I  
3 don't know that it exactly bisects it.

4 Q. Okay. Earlier this morning Mr. Dawson I  
5 believe testified that Mid-Missouri Cellular had been  
6 operating since 1991. Were you here for that?

7 A. I believe so.

8 Q. I'd like to direct you to page 2 of your  
9 Direct Testimony, line 9 and 10 and where you say you'd been  
10 involved either directly or indirectly representing MMC  
11 since 1989.

12 A. That's correct.

13 Q. Which date is correct? I take it from your  
14 testimony they've been operating since '89. I take it from  
15 Mr. Dawson's it was 1991. Which date is correct?

16 A. Well, those -- I'm not sure that either date  
17 is incorrect. There was representation prior to the system  
18 ever being placed in commercial operation.

19 Q. You were there before the system got up and  
20 running?

21 A. We were -- we were involved with the -- from  
22 the ground up.

23 Q. Okay.

24 A. And the 1991 may have been 1990. I believe  
25 the time frame is approximately accurate. It's a matter of



1 public record and we could get the exact date that it went  
2 into commercial service.

3 Q. Page 5 and 6 of your Direct Testimony, the  
4 last paragraph, again I'll paraphrase, basically you're  
5 talking about why you excluded some of the rural telephone  
6 companies from your application. And basically you use the  
7 phrase you wanted to spare the Commission the analysis  
8 required.

9 I guess my question is, so you haven't spared  
10 the Commission such an analysis for Spectra; is that right?

11 A. We -- unfortunately, the Concordia is an  
12 entire wire center located within our market that is an  
13 important wire center. And since we did not feel that it  
14 was -- we did not want to raise an additional cream skimming  
15 issue, we did not only parse out that one particular portion  
16 of the wire center --

17 Q. But the answer to my question --

18 A. -- of the study area.

19 Q. I know why you did it. You've explained that  
20 several times. But the answer is you're not sparing the  
21 Commission that analysis here?

22 A. That's correct.

23 Q. Okay. Moving over to page 7 of your Direct  
24 Testimony, lines 9, 10 and 11, you state that because  
25 Mid-Missouri Cellular and Mid-Missouri Telephone Company

1 share common owners, any cream skimming will be  
2 self-defeating and economically irrational. My question to  
3 you on that, does Mid-Missouri Cellular share common  
4 ownership with Spectra -- common owners with Spectra?

5 A. I don't believe so.

6 Q. Does Mid-Missouri Cellular share common owners  
7 with CenturyTel?

8 A. No.

9 Q. Toward the bottom of page 7 you state, I  
10 believe at line 20 and 21, Alma and Citizens respective  
11 study areas are wholly within Mid-Missouri Cellular's FCC  
12 licensed CGSA. Is Spectra's study area wholly within MMC's  
13 FCC licensed CGMSA?

14 A. CGSA, no.

15 Q. I apologize for skipping through here, but  
16 they've taken some of my questions.

17 Again, I hope this doesn't repeat something  
18 Mr. England went into, but Spectra and CenturyTel sent MMC a  
19 data request that stated on page 2, lines 13 to 16 of your  
20 Direct Testimony you talk about infrastructure modifications  
21 that would improve and expand reliable coverage provided to  
22 subscribers.

23 And we asked you to provide the dollar amount  
24 of those modifications. And if they were made over more  
25 than one year, provide the amount of investment by year. Do

1       you remember how you responded to that data request?

2               A.       No, I do not.

3               Q.       Would you agree that you objected to that data

4       request?  Wouldn't surprise you?

5               A.       It's -- it's possible.  It would be possible.

6               Q.       Has Mid-Missouri Cellular submitted any

7       documents to the Commission -- written documents to the

8       Commission as part of its request relating to specific

9       build-out plans?

10              A.       Not to my knowledge.

11              Q.       I couldn't find anything in the paper record

12       of that.

13                      How about specific plans for new cell sites?

14              A.       No.

15              Q.       Has Mid-Missouri Cellular submitted any

16       documents to the Commission as part of its request relating

17       to time lines and planned use of USF funds for

18       infrastructure improvements?

19              A.       No.

20              Q.       Moving over to your Surrebuttal, on page 5 you

21       cite a Commission case, a Missouri Commission case,

22       TO-2003-0162.  Do you remember the applicant's name in that

23       case?

24              A.       I -- I believe -- and I do have a copy of the

25       case at my desk.  I believe it's Green Hills Cellular

1 Telephone Company doing business as -- and I don't recall  
2 the DBA.

3 Q. Okay. Do you remember in which ILEC territory  
4 and which exchange it was requesting ETC status?

5 A. To the best of my recollection, I think it was  
6 in a part of the Sprint area which was designated as rural.

7 Q. If I were to tell you it was the Norborne  
8 exchange, would that jog your memory?

9 A. I don't recall.

10 Q. Okay. Now, it's true, is it not, that  
11 Mid-Missouri Cellular is requesting to provide service in  
12 only portions of the Spectra exchanges with the exception of  
13 Concordia?

14 A. That's correct.

15 Q. Isn't it true that the applicant in the Green  
16 Hills case, as a condition of its underlying Commission  
17 certification, was required to provide service throughout  
18 exchanges -- an exchange, or do you know?

19 A. I believe that's correct.

20 Q. And, in fact, every CLEC applicant that comes  
21 before this Commission is required to agree to provide  
22 service on an exchange basis. Is that not true?

23 A. I don't know, but I don't have any reason to  
24 doubt it. The CLEC, of course, has the ability to pick the  
25 area that it's going to provide service where the cellular

1 is limited to where it is FCC licensed to provide service.

2 Q. I understand that. Moving to page 12 and 13,  
3 at the very bottom -- you take issue at the last -- very  
4 last of the page. Mr. Martinez, however, is utterly  
5 mistaken in claiming that MMC's FCC license coverage area  
6 includes nonrural areas and extends into multiple states.

7 And I think you go on to say you can only  
8 serve -- and this is what you were answering just a moment  
9 ago -- you can only serve in Missouri RSA No. 7 in Ray  
10 County; is that correct?

11 A. Correct.

12 Q. So you cannot serve then in the -- let's take  
13 the Harrisburg exchange. So you could serve like -- or the  
14 Harrisburg Wire Center, excuse me. You could serve that  
15 wire center but not the rest of the Columbia exchange due to  
16 your CGSA --

17 A. We could serve the portion of that wire center  
18 that was physically within our market. But, again, to the  
19 extent that that was a nonrural wire center, the partial  
20 exchange issue is not relevant.

21 Q. Okay. But it would be relevant in the case of  
22 let's say, Lawson -- the Lawson exchange?

23 A. Yes.

24 Q. You couldn't serve to the west of your yellow  
25 line?

1           A.       That's correct.

2           Q.       Are you aware of whether Spectra disaggregates  
3 below the wire center level?

4           A.       I don't believe they do.

5           Q.       You don't believe you do. Are you aware of --

6           A.       Let me -- if I may clarify my previous answer.  
7 The Commission's -- the FCC order of January 22nd also dealt  
8 with this situation of a partial wire center being within  
9 and without the licensed service area.

10                   And what the Commission found there is that  
11 they -- they would allow the entire service area -- wire  
12 center to be included in the ETC status actually expanding  
13 the area that had been requested allowing that particular  
14 carrier to resell another carrier's service.

15           Q.       And, in fact, the statute talks about that --

16           A.       Correct.

17           Q.       -- does it not?

18                   Are you aware whether Spectra reports USF  
19 loops to the USAC on an entire study area wide basis?

20           A.       I -- I believe they do, but I'm not sure.

21           Q.       Are you aware whether Spectra maintains USF  
22 reporting data below the exchange level?

23           A.       I don't know if they do or do not, but again,  
24 the FCC January 22nd order made it clear --

25           Q.       Well --

1           A.       -- that they would not be required to change  
2       that reporting requirement. They would be able to continue  
3       reporting it as they do now.

4           Q.       But you don't know -- the answer to my  
5       question is you don't know --

6           A.       That's correct.

7           Q.       -- whether they report or maintain --  
8       currently maintain data below the --

9           A.       That's correct.

10          Q.       -- exchange level?

11                 I guess one final question. If the  
12       Commission -- again, this Commission, not the FCC -- denies  
13       your request, is there any legal impediment that would  
14       prevent Mid-Missouri Cellular from reapplying at a later  
15       date?

16          A.       I'm not aware of one.

17                 MR. STEWART: That's all I have. Thank you.

18                 JUDGE DIPPELL: Are there Commission questions  
19       for Mr. Kurtis? Chairman Gaw?

20                 CHAIR GAW: I'm going to pass for the time  
21       being.

22                 JUDGE DIPPELL: Commissioner Murray?

23                 COMMISSIONER MURRAY: Yes, I do. Thank you.

24       QUESTIONS BY COMMISSIONER MURRAY:

25          Q.       Mr. Kurtis, I'm going to go first to the FCC

1       order that your counsel gave us copies of earlier today.  
2       And my first question is involving paragraph 9, Redefining a  
3       Service Area.  
4               And it appears to me that what the FCC is  
5       saying there is that a service area can be, one, either  
6       smaller than the rural carrier's study area; or, two, it can  
7       include the whole study area if the rural carrier -- of the  
8       rural carrier even where the wireless licensed service area  
9       did not include the whole study area; is that right?  
10           A.       I believe so.  
11           Q.       And that would require -- if it were No. 2, if  
12       it were redefined as in the second instance there, that  
13       would require the wireless carrier to provide service  
14       through resale, is that right, to those areas that it's not  
15       currently licensed as a wireless carrier?  
16           A.       Correct.  
17           Q.       That would require it to operate as a CLEC  
18       within those areas?  
19           A.       That would be one option.  
20           Q.       What would be another option for it to operate  
21       in the state of Missouri?  
22           A.       They could resell commercial mobile radio  
23       service from another wireless provider.  
24           Q.       Okay.  
25           A.       The problem that you have when you get into



1       those resale situations, and the reason that Mid-Missouri  
2       Cellular tried to limit its proposal to its area where it  
3       serves, is there are commitments that Mid-Missouri Cellular  
4       can and has made with respect to what it can and will do  
5       with respect to the network that it controls. When it gets  
6       into a resale situation, the hands are tied by whose ever  
7       facilities are being resold.

8               Q.       So that's not your request to do No. 2, which  
9       is one of the things that the FCC did provide could be done  
10      in redefining a service area. Correct?

11             A.       That's correct.

12             Q.       Your request is only that you be able to serve  
13      an area that is smaller than the rural carrier's study area?

14             A.       That's correct.

15             Q.       And in paragraph 15 of the order the FCC  
16      lists -- let's see, we'll take a number pertaining to  
17      cellular license -- let's see. Virginia Cellular will take  
18      a number of steps to provide service -- rather than go  
19      through that whole paragraph, I'm looking at the itemized  
20      list there in paragraph No. 15.

21                     And I'm looking specifically at No. 5, one  
22      consideration being that it can offer resold services from  
23      another carrier's facilities to provide service. Is that  
24      one of the things that Virginia Cellular made a commitment  
25      to do when the FCC granted it designation as an ETC?

1           A.       I believe they did.  Virginia Cellular's  
2       coverage area was not as ubiquitous as Mid-Missouri  
3       Cellular's.  We don't believe that we would have to offer  
4       resale services in order to hit the location of a  
5       prospective subscriber.

6           We believe that the items that are referred to  
7       up above, such as the roof mounted antenna or rather yagi  
8       antenna, which Mr. Dawson and Mr. Jones testified to,  
9       would -- would enable us, with the number of cell sites that  
10      we have deployed, to be able to provide that service without  
11      resorting to resale.

12          Q.       Is Mid-Missouri Cellular capable of resale?  
13      Is there anything that would prevent it from reselling?

14          A.       It would have to have a resale agreement, but  
15      other than that, no.

16          Q.       Okay.  Turn to page -- or paragraph 29 of the  
17      order, please.  Virginia Cellular's universal service  
18      offering will provide benefits to customers in situations  
19      where they do not have access to a wireline telephone.  For  
20      instance, Virginia Cellular has committed to serve  
21      residences to the extent that they do not have access to  
22      public switched network through the incumbent telephone  
23      company.

24                  Has or will Mid-Missouri Cellular make that  
25      same commitment?

1           A.       In its service area, yes.

2           Q.       And that is to all residences that do not have  
3 access to the public switched network through the incumbent  
4 telephone company?

5           A.       Yes. I believe as Mr. Dawson testified, that  
6 in a case-by-case situation it may require a fixed antenna  
7 on top of a residence. But we believe that we would be able  
8 to do it just as we did in the example Mr. Jones testified  
9 to.

10          Q.       And you're committing to do that within what  
11 period of time?

12          A.       Well, it's a function of when the subscriber  
13 comes in and makes the request. I think Mr. Dawson  
14 indicated an outside of 12 months of that request. But, you  
15 know, typically these things can be implemented very  
16 quickly.

17          Q.       Okay. And you're saying within your  
18 territory, within your currently licensed territory is what  
19 you're saying; is that right?

20          A.       Right. That is, again, the primary reason  
21 that we have sought to limit the ETC request to where we  
22 serve is because we can control these items. You know,  
23 we -- if we're reselling another carrier's service in an  
24 area outside of our market, we don't have the ability to  
25 modify the other carrier's network.

1                   If we're reselling a wireline service outside  
2                   of the market as a CLEC, we, again, are bound by when that  
3                   wireline company puts the facility in. To the extent that  
4                   it's a matter that we can serve legally from our network and  
5                   the items are in our control, Mid-Missouri Cellular has made  
6                   those commitments to this Commission.

7                   Q.       And you're saying if you committed to serving  
8                   areas that you would have to serve by resale, you could not  
9                   make that commitment; is that right?

10                  A.       The commitment would be limited by what the  
11                  underlying carrier whose facilities we're reselling. We  
12                  could not commit to modify their network.

13                  Q.       But is there a rationale in terms of universal  
14                  service support that would indicate that universal service  
15                  support should be available to all areas within a specific  
16                  service area and not just portions?

17                  A.       Well, again, it's the function of how the  
18                  service area is defined. If -- if we're looking at  
19                  overlaying the wireless, then you would be making a point  
20                  for saying that the wireless carrier licensed for the other  
21                  half of that area should also receive ETC status to be able  
22                  to provide that support over there.

23                             The problem that we have is the Commission,  
24                             when they made the licenses for the wireless areas, used  
25                             different boundaries than what the LEC exchange boundaries

1       were. And the purpose of the universal service is to bring  
2       these services on parity in the rural areas.

3                       But to the extent that you have a wireless  
4       carrier, you have an artificial regulatory constraint on  
5       what they can physically provide service to by their FCC  
6       license. But there are, again, multiple wireless carriers  
7       in that adjacent market that, if certificated by the  
8       Commission, could step up and provide the service in that  
9       area. Just as -- just as Alma cannot provide USF support in  
10      Citizens' market, the Commission looks to Citizens to  
11      provide it in that market.

12                    Q.       Okay. In paragraph 33 of the order, this is  
13      the reference to reasons beyond a competitive carrier's  
14      control. There are instances in which the lowest cost  
15      portion of a rural study area may be the only portion of the  
16      study area that a wireless carrier's license covers.

17                    And you're saying that is not the case and --  
18      that is not the situation for Mid-Missouri Cellular and any  
19      study area that you're --

20                    A.       That's correct.

21                    Q.       And paragraph 35 was the paragraph denying ETC  
22      designation -- Virginia Cellular designation as an ETC in  
23      the NTELOS study area. Is it your position that  
24      Mid-Missouri Cellular is completely distinguishable from the  
25      situation with the NTELOS study area?

1           A.       Absolutely.

2           Q.       In paragraph 37 this is where the FCC talked  
3       about designating Virginia Cellular as an ETC in the entire  
4       wire centers and a particular study area even though the  
5       boundaries of its CMRS license excluded a small part of  
6       that?

7           A.       Correct.

8           Q.       And when Virginia Cellular then committed to  
9       offer service to customers in entirety of the Williamsville  
10      wire center, it could have done so -- okay, it would not  
11      have had to have gotten a CLEC certificate from Virginia  
12      would be your position there because it could do so by  
13      resale wireless?

14          A.       Correct.

15          Q.       Paragraph 46, I think you've already said  
16      either -- well, I believe you said that Mid-Missouri  
17      Cellular would stipulate to abide by similar conditions to  
18      those set out in paragraph 46?

19          A.       Yes, ma'am.

20          Q.       And when you say "similar," are there any  
21      specific differences that you would not agree to commit to?

22          A.       I don't believe there are any conditions in  
23      that paragraph that we would not agree to in this  
24      application. The reference I meant to similar was where  
25      this refers to Commonwealth of Virginia, we would refer to

1 the State of Missouri, those type situations.

2 Q. Now, turn, if you would, to the separate  
3 statement of Chairman Powell. And in the second paragraph,  
4 the last line on the second -- last sentence in the second  
5 paragraph, Chairman Powell says, To ensure that Virginia  
6 Cellular abides by its commitments, moreover, we have  
7 imposed reporting requirements and, of course, retained the  
8 right to conduct audits and other regulatory oversight  
9 activities, if necessary.

10 Do you agree that's what that says?

11 A. Yes, ma'am.

12 Q. Now, I think it's clear that the FCC has  
13 jurisdiction to enforce the commitments made by Virginia  
14 Cellular where the FCC granted it ETC status. Do you agree  
15 with that?

16 A. Yes.

17 Q. But in this instance it would be the state  
18 commission that would be granting ETC status to Mid-Missouri  
19 Cellular. And it's my understanding that Mid-Missouri  
20 Cellular has committed -- has submitted itself to our  
21 jurisdiction even though it's -- I believe it's not clear  
22 that we have jurisdiction and some states have declined to  
23 exercise jurisdiction over granting ETC status.

24 So what I'm asking you is, has Mid-Missouri  
25 Cellular consented to our jurisdiction to enforce any

1 conditions that we would place upon it?

2 A. Any of the conditions that are tied to the  
3 monitoring of the appropriateness of the USF funds, the use  
4 of the funds, the items that have been discussed, for  
5 example, those type items in paragraph 46, absolutely.

6 Q. Can a party voluntarily subject itself to  
7 jurisdiction if one otherwise doesn't exist -- if  
8 jurisdiction doesn't otherwise exist?

9 A. I -- I don't know under Missouri law. In  
10 this -- in this instance though I think from the standpoint  
11 of designation of ETC, the state has the authority to  
12 determine whether it wants to exercise its authority.

13 The FCC stepped in because the state of  
14 Virginia expressly determined that it would not exercise its  
15 rights to regulate ETCs. So that's why the FCC stepped in.

16 I don't believe that there is a question that  
17 the state of Missouri has the right to decide to exercise or  
18 decline to exercise the jurisdiction, but I believe that  
19 once the state decided that they were going to exercise the  
20 jurisdiction to designate ETCs, that they are entitled to  
21 the same oversight like the FCC talks about, to make sure  
22 that those funds are appropriately -- appropriately used for  
23 the ETC support.

24 Because the state is then the one, as I  
25 believe you pointed out this morning, that has to do the



1       annual certification that the funds are being used in  
2       compliance. And I think that's a necessary part of the  
3       state's due diligence.

4               Q.       So in terms of granting ETC status to a  
5       wireless carrier, however, over whom a state commission  
6       otherwise does not have jurisdiction, are you saying that  
7       the FCC has told the states that it is the state's choice  
8       whether to exercise that jurisdiction over wireless  
9       carriers?

10              A.       I -- I believe that what this -- what this  
11       order is making clear is that the party that grants the ETC  
12       status retains the ability to monitor how those funds are  
13       used and to ensure compliance with the ultimate authority --  
14       the ultimate stick, if you will, of the authority to revoke  
15       the ETC status once granted.

16              Q.       Okay. Now, turn, if you will, to Commissioner  
17       Abernathy's separate statement. And I'm looking at the last  
18       paragraph on the first -- the only page of her statement.  
19       And she says, I am pleased that the Commission has required  
20       Virginia Cellular to submit build-out plans to document its  
21       proposed use of Federal Universal Service Fund  
22       infrastructure investment.

23                      Do you agree that's what that says?

24              A.       Yes, ma'am.

25              Q.       Isn't this a significant distinction from what

1 the Mid-- what Mid-Missouri Cellular has provided at least  
2 to this point in its application for ETC status?

3 A. But, again, I think Commissioner Abernathy's  
4 statement is to require this on a looking-forward basis.  
5 What the order makes clear when they're talking about the  
6 requirements and the conditions on ETC status, is in order  
7 to get ETC status, it's not necessarily -- it's not  
8 necessary that the applicant be doing everything that  
9 they're going -- that they would do upon the grant. And  
10 that's what the condition is.

11 And these conditions, when you go back and  
12 read the order, it's on a -- a prospective basis that the  
13 reports they're submitted starting October -- I believe it's  
14 October 1st of this year as to exactly what the build-out  
15 plans are, what progress has been made, what money has been  
16 spent.

17 Q. So there was no build-out plan provided in the  
18 application process?

19 A. That's correct. But this Commission certainly  
20 could require one on a going-forward basis as a condition of  
21 the ETC designation.

22 Q. All right. At the end of Commissioner  
23 Abernathy's statement she says, The Joint Board may soon  
24 recommend that this Commission and state commissions impose  
25 additional requirements, and I eagerly await the outcome of

1       that proceeding.

2                   And my question to you is, if the Joint Board  
3 comes out with additional requirements, would Mid-Missouri  
4 Cellular stipulate at this point to be bound by any  
5 additional requirements that the Joint Board --

6           A.       I -- I don't think we have the option not to,  
7 but yes, they would if --

8           Q.       So is it your position that even if a company  
9 is granted ETC status prior to the Joint Board's additional  
10 requirements, that they would be retrospec-- they would  
11 apply retrospectively?

12          A.       Yes. In paragraph 3 of the order, it's  
13 referring again to these particular proceedings, and it  
14 says, The outcome of that proceeding could potentially  
15 impact, among other things, the support that Virginia  
16 Cellular and other competitive ETCs may receive in the  
17 future and the criteria used for continued eligibility to  
18 receive universal service support.

19                   So if -- if something changes, if the  
20 recommendations of the Federal/State Joint Board result in  
21 rule changes or if there's a statutory change, this is not  
22 the situation where a previously designated ETC is  
23 grandfathered. The -- the going-forward obligations from  
24 that point forward, the Commission would have the authority  
25 to impose those additional obligations on any ETC that had

1       been previously designated, including the incumbent LECs.

2               Q.       Okay. Now, if you'd turn to your testimony,  
3       your Direct Testimony, please. I want to just briefly touch  
4       on what -- I'm drawing a blank. Well, what CenturyTel's  
5       counsel, I apologize, was asking you about a few moments  
6       ago.

7                       The statements that you made -- and I did make  
8       notes on that too because I found it quite incongruent that  
9       you were saying that it was helpful to the Commission to  
10      spare us the analysis regarding the rural areas -- the  
11      companies whose component exchanges fall partially within  
12      MMC's CGSA when on the next page you talk about in the  
13      application MMC is also seeking ETC designation in three  
14      MMTC exchanges that fall outside the broken yellow line.  
15      And then --

16              A.       We were not seeking status of those three  
17      exchanges outside the broken line. We are only seeking ETC  
18      designation of the Mid-Missouri Telephone exchanges that are  
19      within the broken line.

20              Q.       But you are seeking ETC designation for only a  
21      portion of Mid-Missouri Telephone Company's study area; is  
22      that right?

23              A.       Right. Again, we are seeking the  
24      certification for all of their study area that falls within  
25      our licensed FCC service area. In the Mid-Missouri Cellular

1 case, the exchange boundaries, the wire center boundaries  
2 are totally within of those -- of the exchanges that we're  
3 seeking the ETC status in, it's 100 percent of those  
4 exchanges. It's 100 percent of the Citizens and Alma. The  
5 one that -- that raises the partial issue for a wire center  
6 is the Spectra. And --

7 Q. That's the only one?

8 A. -- again, you know, the other position that  
9 this Commission could certainly take -- you know, we -- we  
10 were keenly aware of the concern that we not be -- appear to  
11 be cream skimming. That's why when we picked up some of  
12 Spectra's area in our market, we took all of Spectra's area,  
13 including those partial markets.

14 The Commission could certainly come back,  
15 consistent again with the January 22nd order, and say  
16 Concordia is entirely within Mid-Missouri's service area, it  
17 is noncontiguous with the balance of Spectra's area and say,  
18 We will grant you ETC status in Concordia.

19 To the extent that the other three partial  
20 ones are involved, Mid-Missouri would have to commit to do  
21 resale to get the entire wire center or exclude those  
22 partial wire centers.

23 But the reason that we went for the partial  
24 ones of Spectra and only Spectra is so that it did not  
25 appear that we were trying to cream skim, to take only the

1       one that was totally within the market. So we took all of  
2       what they had in our licensed service area.

3               Q.       I think I understand now. I have to think  
4       about that one.

5                       On page 15 of your Amended Surrebuttal  
6       Testimony at the top of the page you're talking about all  
7       TDMA carriers such as MMC are being forced to over-build  
8       their entire networks with new digital technologies.

9                       And that is with or without ETC status; is  
10      that right?

11              A.       That was the subject of my in-camera  
12      testimony.

13              Q.       Which you don't want to go into any detail on  
14      that, I'm sure. And I'm not going to ask you any detail.

15                      But my question to you, is it appropriate  
16      if -- is it appropriate to use USF funding for something  
17      that a carrier is already being forced to do anyway?

18              A.       Oh, that's the entire concept behind USF.  
19      Where the LEC is providing voice grade service, what it's  
20      doing is it's supporting that to make that ubiquitously  
21      available.

22                      We went into the discussion of how the ETC  
23      designation would be used to make this ubiquitously  
24      available in our market during the in-camera discussion, but  
25      this -- this use is totally consistent with the underlying

1       purpose of USF to provide parity for the telecommunications  
2       services in the rural areas.

3               Q.       And where do we draw the line in terms of what  
4       universal service should support? I think originally the  
5       concept -- at least my concept of it originally was it  
6       should be Plain Old Telephone Service to all customers.

7               A.       Well, I mean, that's a -- that's a fundamental  
8       and very serious policy consideration that -- that is, in  
9       fact, teed up at the federal level.

10              This Commission really, you know -- it's a  
11       very simple situation for this Commission. The Commission  
12       is not being asked to decide should wireline, should  
13       wireless get ETC. The wireless -- Congress and the FCC have  
14       decided wireless will get F-- will get ETC. It's not  
15       Missouri funds, it's federal funds that are being allocated.

16              The only thing that this Commission is  
17       deciding is whether or not wireless in Missouri and,  
18       therefore, the rural population in Missouri is going to have  
19       access to those federal funds. They're going to go to  
20       wireless carriers, they're being designated by the other  
21       state commissions, they've been designated by the FCC.

22              The only question is whether any of those  
23       federal funds are going to be used in the state of Missouri.  
24       To the extent that those policy issues are decided, they may  
25       impact the amount of funding and how it is calculated and

1       those policy issues will be reached. But that's something  
2       that this Commission does not have to reach in acting on  
3       Mid-Missouri's application.

4               Q.       I want to go back just very briefly to some  
5       discussion you were having earlier about TDMA handsets. And  
6       I'm not -- I think those may have been in the in-camera  
7       portion, so I won't mention the numbers, but if CDMA  
8       handsets are required to roll out your new technology, are  
9       you suggesting that the handsets would be paid out of  
10      Universal Service Funding or would they be charged to the  
11      customers?

12             A.       Well, I believe that the testimony had in that  
13      those handsets would be made available with respect to  
14      lifeline customers on a subsidized basis, that there's  
15      link-up discounts and payment terms that would be applicable  
16      also.

17             Q.       And that's the only place that USF funding  
18      would apply to the handset?

19             A.       That's correct.

20             Q.       And I think I just have one more question and  
21      that is from the application on page 5. You spoke about --  
22      or not you. Whoever prepared the application said MMC will  
23      comply with any and all minimum local usage requirements  
24      adopted by the FCC. As I understand it, right now the local  
25      usage that MMC would provide could be a limited number of



1 minutes for a certain rate; is that right?

2 A. Mid-Missouri has many different service plans.  
3 If we're talking about the lifeline-only available plans,  
4 there are two specific plans that Mid-Missouri Cellular  
5 envisions at this time.

6 The one that Mr. Dawson testified to this  
7 morning is that lowest cost comparable to what they're  
8 currently paying for the LEC service that gives them the  
9 mobility of the single cell site and gives them the local  
10 calling area comparable to their current LEC local calling  
11 area.

12 The next lifeline-only support -- service plan  
13 that would be available that is not a current Mid-Missouri  
14 Cellular plan would provide lifeline eligible car--  
15 subscribers for a flat rate of \$10 a local calling area that  
16 was contiguous with the ETC designated area. So it would be  
17 an unlimited local calling to numbers within the area that  
18 Mid-Missouri Cellular has designated as an ETC and would  
19 provide them mobility in that area as well and that's the  
20 \$10 plan.

21 Q. And that would be unlimited?

22 A. Unlimited local calling to numbers within that  
23 entire ETC designated area.

24 COMMISSIONER MURRAY: Okay. That's all my  
25 questions. Thank you.

1 THE WITNESS: Thank you.

2 JUDGE DIPPELL: Thank you.

3 Commissioner Clayton, do you have questions?

4 QUESTIONS BY COMMISSIONER CLAYTON:

5 Q. Could you tell me the section number of -- or  
6 where I could find the -- where it states in law or by rule  
7 the goal and purpose of the Universal Service Fund? Is it  
8 in your testimony, its reason for being?

9 A. I believe we've testified to that. And I  
10 believe the Commission in their January 22nd order also  
11 discussed that as well.

12 Q. Well, can you repeat it for me so I don't have  
13 to dig for it? Or if you don't know it, that's fine. I can  
14 find it later on.

15 A. I don't have it off the top of my head.

16 Q. Okay. Okay. Do we have the legal  
17 authority -- first of all, let me ask, I think your  
18 background says that you're an attorney and an engineer; is  
19 that correct?

20 A. That's correct.

21 Q. Okay. Great. Do we have the legal authority  
22 to place a condition on the awarding of ETC designation?

23 A. I believe that's what the January 22nd order  
24 makes clear.

25 Q. The FCC order?

1           A.     Yes, sir.

2           Q.     Okay. And do you believe that conditioning  
3           can be related to any subject or any topic involving the  
4           services that your company provides?

5           A.     I read the January 22nd order as referring to  
6           the USF support and any items that are reasonably required  
7           to ensure compliance that the money is used for those  
8           intended purposes.

9           Q.     Okay. So that would be a no?

10          A.     That's correct.

11          Q.     Just for those finite number of things; is  
12          that correct?

13          A.     Right.

14          Q.     I have not read the January 22nd order.

15          A.     I understand.

16          Q.     I'm not as quick a reader as other  
17          Commissioners are.

18                   Is the designation of ETC revocable by this  
19          Commission?

20          A.     Absolutely.

21          Q.     Okay. And does the law set out what reasons  
22          that we could revoke it?

23          A.     I don't know that the law specifically sets it  
24          out or not in Missouri. I know that under the federal  
25          statutes and as explained by the FCC, any time that there is

1 a determination by this Commission that the funds are not  
2 being used as required, that the ETC status can be revoked.

3 Q. So if we, as a Commission, found that that the  
4 coverage of Mid-Missouri Cellular throughout the service  
5 area, service territory had not improved to a standard that  
6 we thought -- and I'm speaking hypothetically.

7 A. I understand.

8 Q. I'm not saying that the service is bad. But  
9 if we found it hadn't improved to a certain standard, could  
10 we revoke the ETC designation for that reason?

11 A. I think it would be a function of -- of what  
12 exactly occurred. Like, for example, this Commission order  
13 talks about dead spots which occur with the technology.  
14 There may be an isolated spot that is a dead spot. I don't  
15 think that would be a basis for the Commission to revoke it.  
16 In sharp contrast, if there's an area where --

17 Q. And you say that legally or personally?

18 A. I believe that's what the FCC order says.

19 Q. Okay.

20 A. The FCC makes a detailed discussion of dead  
21 spots and that those are not a condition to ETC. So I  
22 believe legally that that would not be a basis.

23 However, if there was an area that  
24 Mid-Missouri Cellular was not serving and a subscriber -- a  
25 potential subscriber had come and asked for that service and

1 Mid-Missouri Cellular reported back that it was unable to  
2 provide the service and why, I believe that the Commission  
3 would have the authority to use that as the basis to make a  
4 determination on whether or not Mid-Missouri Cellular had  
5 lived up to its commitments.

6 Q. Okay. If we were to deny ETC status to  
7 Mid-Missouri Cellular, where would your appeal rights lie?  
8 In federal court or state court?

9 A. I'm not sure.

10 Q. Okay. Can we mandate the adoption of the CTIA  
11 Code of Conduct?

12 A. As a condition for ETC?

13 Q. Yes.

14 A. I believe you could.

15 Q. Could we mandate service to every home within  
16 the service area that requested service, even if it required  
17 that special giggle antenna or whatever it was called? What  
18 was it called?

19 A. Yagi.

20 Q. Yagi, giggle, google. I was thinking google  
21 is what I was thinking. Yagi.

22 A. Yeah. I mean, I believe with that caveat that  
23 you could.

24 Q. We could condition it?

25 A. I believe you could.

1           Q.       Okay.  Could we mandate as a condition of this  
2       order, a particular plan characteristics?  For example,  
3       could we mandate a local usage plan of unlimited local  
4       service?

5           A.       I don't believe that you could regulate rates.  
6       I believe that you could make your grant conditioned upon  
7       Mid-Missouri providing the service plans that Mid-Missouri  
8       had indicated they would provide.  And in this particular  
9       case, it would have the effect of those particular plans  
10      that we had discussed.

11          Q.       So our regulation or -- I say regulation.  Our  
12      conditioning based on this would be holding your feet to the  
13      fire to what you've promised to do?

14          A.       Correct.

15          Q.       But we could not, on our own, come up with a  
16      plan that we think the customers in this area should be able  
17      to get from your company?

18          A.       I don't believe that the Commission could.

19          Q.       Can we condition an order granting this  
20      designation for having a regular audit or review of the  
21      level of service for lifeline services and prices?

22          A.       I believe that you can.

23          Q.       Do you believe that we could mandate a review  
24      of all the prices and all the plans that are offered by  
25      Mid-Missouri Cellular?

1           A.     Again, not from the stand --

2           Q.     I think you already said --

3           A.     -- of the regulations.

4           Q.     I think you answered no to that one earlier.

5           A.     That's correct.

6           Q.     How would we supervise the use of the funds

7           that Mid-Missouri Cellular were to receive if we did grant

8           ETC status?

9           A.     I think the most effective way would be the

10          way that the FCC spelled out in the Virginia Cellular order

11          requiring the detailed reporting of what those funds are

12          used for, and the Commission put it up on an annual basis.

13          Q.     Would we have discovery option -- discovery

14          tools to further investigate and verify the figures that

15          Mid-Missouri Cellular would supply in its detailed

16          reporting?

17          A.     Well, the FCC order talks about the ability to

18          audit the use of those funds.

19          Q.     That's the FCC. What about state commissions?

20          A.     I believe that the state commission would be

21          justified in -- in using the same type structure on the

22          state level of requiring the submission of all supporting

23          documentation.

24          Q.     I agree that we'd be justified. But would we

25          have the legal authority to --

1           A.       I believe you would.

2           Q.       Okay.  Could we mandate, as a condition for  
3           ETC status, that we would have jurisdiction for consumer  
4           complaints that would be levied against the company, if  
5           there were any by customers?

6           A.       I think that the FCC would have jurisdiction  
7           for the complaints.

8           Q.       So we could not condition this designation on  
9           your submission to our jurisdiction?

10          A.       I don't believe that we could voluntarily  
11          change the jurisdiction of the customer's right to file a  
12          complaint.  But having said that, I don't think there would  
13          be anything to stop the Commission, as part of its annual  
14          certification and reporting requirements, from requiring  
15          that Mid-Missouri provide copies of any complaints that were  
16          filed and the resolution of those complaints.

17          Q.       So we would keep a record but we'd have no  
18          ability to enforce or have the power to resolve them in any  
19          way?

20          A.       I don't think that you would have the power to  
21          resolve the individual complaints, but you would have the  
22          ability to determine whether those complaints as a whole  
23          rose to the level of a breach of Mid-Missouri's commitment  
24          or an improper use of the USF.  And then the remedy, of  
25          course, is -- the ultimate remedy could be up to revocation



1 of the ETC status.

2 Q. When do you anticipate, if you know -- and you  
3 may not know the answer to this. When do you anticipate  
4 that the Joint State/Federal Board on Universal Service will  
5 come out with their recommendations on the requirements? Do  
6 you have any idea?

7 A. It is -- it has been promised for several  
8 months. The -- the last that I heard is they're shooting to  
9 have it out in the March, April time frame. Could be  
10 earlier, could certainly slip again.

11 Q. You would agree that the Virginia Cellular  
12 order is a departure from previous orders in that it did set  
13 out some new stringent -- or relatively stringent  
14 requirements for compliance with providing universal service  
15 or providing these services in rural areas. You would agree  
16 with that?

17 A. Yes, sir.

18 Q. Commissioner Martin issued the lone dissent in  
19 this order. And he objected on the grounds that the goals  
20 of universal service are not to, quote, provide greater  
21 mobility, closed quote, and a, quote, choice, closed quote,  
22 of providers in rural areas and that granting such ETC  
23 status to this cellular company would not fall within the  
24 universal service program.

25 Are you aware, is that a position that he has

1 held during his tenure on the FCC?

2 A. I believe it's consistent with that position.

3 Q. Do you believe his position is consistent with

4 the spirit of the Universal Service Fund?

5 A. I believe that it is to the extent that what

6 he is alluding to is the fact that the Universal Service

7 Fund has the goal of putting rural -- rural customers on

8 parity with the lower cost service areas.

9 He focuses on the cost item. And as we

10 testified here, we have been very careful to come up with a

11 plan that was, in fact, on parity price-wise, somewhat

12 superior in that it offered, although the same local calling

13 area, the mobility. We've also gone on to provide other

14 low-cost options for lifeline service as well.

15 So I think that to the extent that

16 Commissioner Martin focuses on the cost piece only,

17 Mid-Missouri Cellular would pass that -- that review as

18 well. But to the extent that the other four commissioners

19 have focused on the actual parity of the type and quality of

20 service, Mid-Missouri Cellular falls within that as well.

21 Q. Do you believe that we could condition

22 awarding this ETC designation upon the condition of placing

23 the company subject to the carrier of last resort

24 obligations as Commissioner Martin suggested in his dissent?

25 A. I believe that we've testified a willingness

1 to commit to that. And, again, to the context that it's  
2 tied to the Mid-Missouri Cellular commitment, I think we  
3 avoid the question of the -- of any jurisdictional issues.

4 COMMISSIONER CLAYTON: I believe that's all I  
5 have. Thank you very much.

6 JUDGE DIPPELL: Thank you.

7 I think we might take just a very short break,  
8 about eight minutes, come back at 25 after.

9 (A recess was taken.)

10 JUDGE DIPPELL: Okay. Let's go ahead and go  
11 back on the record. We're going to go -- we're going to try  
12 to finish Mr. Kurtis today, if possible, and then we'll  
13 probably just go ahead and come back at 8:30 in the morning  
14 and work around agenda during the day.

15 Commissioner Murray, you had a couple of  
16 additional questions, I believe.

17 COMMISSIONER MURRAY: Chairman Gaw, did you  
18 want me to ask these first?

19 Thank you.

20 FURTHER QUESTIONS BY COMMISSIONER MURRAY:

21 Q. Mr. Kurtis, could we include as a condition  
22 that MMC include the whole study area of the rural carriers  
23 even where your license is not present?

24 A. I don't think that that would be something  
25 that would be in the spirit of granting wireless ETC status.

1       We have come in and asked for a specific area. I think the  
2       Commission order has given some latitude on where we can  
3       split an exchange in those contexts.

4               But, for example, if you look at the map where  
5       Spectra serves a substantial area of the southern state of  
6       Missouri and, you know, requiring a rural cellular wireless  
7       carrier that is licensed for and has its operation in a  
8       seven-county area in the state of Missouri to turn around  
9       and provide service essentially on a statewide basis on a  
10      resale basis is something that I don't think would be in the  
11      spirit of what is intended in the designation of a wireless  
12      ETC.

13             And I don't think it would be appropriate in  
14      the context of a licensed wireless service area to come back  
15      and make that level of a departure.

16             Q.       But if it were a CLEC making application for  
17      ETC status, the CLEC would have to serve all those areas; is  
18      that right?

19             A.       No. The CLEC would not have to serve those  
20      areas. Case in point, Green Hills, you did not require that  
21      CLEC to go and serve, you know, the entire study area, I  
22      don't believe that that was an entire study area.

23             CLECs typically do come in on a wire center  
24      and exchange basis. And, you know, what -- what I think  
25      would be a more appropriate designation here would be to

1 say, you know, Mid-Missouri, you will either serve the whole  
2 area of those partial wire centers or you will only serve  
3 Concordia as an ETC. And then Mid-Missouri could commit  
4 which way, you know, they would do it as a way to address  
5 that issue.

6 As long as -- and in this particular case I  
7 don't think there's any question that Concordia is not a  
8 major population center or high population density as was  
9 the case in the NTELOS Waynesboro market.

10 Q. Okay. And then I'm going to ask if there were  
11 any other reasons, other than the reasons you stated, to  
12 exclude the rural telephone companies of ALLTEL, Cass  
13 Telephone Company, Chariton Valley and Green Hills?

14 A. No. The only thing I would point out, for  
15 example, is Chariton Valley, it is such a minimal area up in  
16 the remotest region of our particular coverage area and it's  
17 on the fringe, which would be an additional reason why it  
18 would be more difficult for Mid-Missouri to serve that as  
19 well. But, again, the primary reason is that there were no  
20 entire rate centers within the Mid-Missouri market.

21 COMMISSIONER MURRAY: All right. Thank you.

22 QUESTIONS BY JUDGE DIPPELL:

23 Q. Okay. I have just a few what I think are  
24 probably technical questions. And you may have explained  
25 this earlier, but could a customer that Mid-Missouri

1 Cellular receives USF funding for, could they also be a  
2 customer for the ILEC that's receiving federal funding? In  
3 other words, could they have a landline and a wireless line  
4 and be --

5 A. Yes, ma'am.

6 Q. -- a customer for both purposes?

7 A. They would -- in that example they would  
8 receive -- the ILEC would continue to receive all of their  
9 USF funds, cellular would receive its USF funds. Very  
10 similar to the situation where they go and acquire a second  
11 line from the LEC. That second line is a supported line as  
12 well.

13 Q. So under that situation, if the customer were  
14 a customer of Mid-Missouri Telephone Company and then they  
15 had a cellular phone from Mid-Missouri Cellular, the same  
16 family of companies would be receiving twice the Universal  
17 Service Funds?

18 A. Well, no. Mid-Missouri Telephone would be  
19 receiving the universal support for the landline service.  
20 Mid-Missouri Cellular would be receiving the universal  
21 support for a different service, the wireless service.

22 The fact that there was common ownership would  
23 be true, but they're each receiving support for a different  
24 supported service. And, again, in this particular case the  
25 receipt by the wireless carrier does not impact the money

1       that's received from the ILEC. And remember, the wireless  
2       subscribers are paying a universal service contribution.  
3       And, in fact, if you look, the contribution -- the --

4             Q.       Right. I understand that --

5             A.       Okay.

6             Q.       -- Mr. Kurtis. Thank you.

7                     The USAC is a body that's discussed a lot.  
8       Can you explain that entity to me?

9             A.       It's the council that essentially administers  
10       in performing the calculations of what the contributions  
11       are, what the cost factors are, what each carrier is  
12       entitled to receive based upon what their status is and  
13       based upon -- in fact, on their web page it shows what  
14       Mid-Missouri Cellular would be entitled to receive if it  
15       does receive ETC status based on the line reportings that  
16       have been made to them. So they essentially perform the  
17       calculation portion of it.

18            Q.       And who makes up that body, that entity?

19            A.       Well, I know it's appointed. I believe -- I  
20       know that the head is appointed and a new head has just been  
21       nominated by Commissioner Powell.

22            Q.       Does that involve state commissions?

23            A.       I really don't know that.

24            Q.       Okay. On page 9 of your Direct Testimony,  
25       very bottom paragraph, I may regret this, but first of all,

1       can you explain to me what disaggregation is?

2               A.       This is essentially the concept of splitting  
3       apart the study area. In other words, go in and break out  
4       where the high cost is, where the low cost is to essentially  
5       enable the ETC to come in and go for something other than  
6       the whole study area.

7               Q.       Okay. And what exactly is a wire center?

8               A.       It's the physical facility where the -- the  
9       actual local loops are drawn in for provision of service.  
10       And the wire center boundary is the area that -- that's --  
11       that switch and those loops, if you will, are providing  
12       service to.

13              Q.       So is a wire center the same thing as a  
14       switch? I mean, would there be one wire center per switch  
15       or would there be --

16              A.       Typically, yes. In these cases I think that  
17       is the case in all of these.

18              Q.       Okay. Now, back to page 9 of your direct,  
19       that very bottom -- the last full sentence it begins on  
20       line 21, The FCC has ordered rural ILECs like Spectra to  
21       disaggregate and target high-cost support below the study  
22       level area to eliminate uneconomic incentives for  
23       competitive entry caused by the averaging of support across  
24       all lines served by a carrier within a study area.

25                      Can you put that in laymen's terms for me?



1           A.       My analogy, if you serve two communities, and  
2       one has a population density of 500 per square mile and the  
3       other one has a population density of 5 per square mile, if  
4       you average those out, your population densities are around  
5       250 per square mile.

6                    But what you're really doing is if someone  
7       were to come in and focus on just the one that is 500 per  
8       square mile and you look at that piece, the cost of  
9       providing service is much lower. Contrast that with the  
10      cost to provide service for the one that is 5 per square  
11      mile, where it's much higher.

12                   If you average it, you have a whole area that  
13      is 250 per square mile, as opposed to if you disaggregate it  
14      and try to separate out that higher cost area so that  
15      someone coming in and getting support isn't providing  
16      service in the 500 per square mile density and getting  
17      support as if it was 250. You know, so that's the concept  
18      behind disaggregation.

19           Q.       And then in the attachments to your Direct  
20      Testimony and some of the testimony you've given here today,  
21      you've talked about phase 1 and phase 2 of the FCC's  
22      enhanced 911. Could you just briefly explain to me what  
23      phase 1 and phase 2 are?

24           A.       Yes, ma'am. When a call is placed to 911,  
25      with phase 1 the carrier is required to provide the

1 dial-back number in case the call is disconnected so the  
2 public service answering point can call back to that entity  
3 and the cell site from which that call was placed.

4 In phase 2, it requires that you provide the  
5 call-back number and pinpoint the location of the handset  
6 that placed that call to within certain accuracy standards  
7 depending on whether it's handset-based or network-based  
8 solution. But the difference between it primarily is  
9 phase 1, you're identifying the cell site; phase two, you're  
10 identifying the location of the actual subscriber's phone.

11 Q. Okay. And are there FCC-imposed time lines on  
12 phase 1 and phase 2 for implementation?

13 A. The time lines trigger based upon when the  
14 local emergency public service answering point is ready to  
15 receive phase 1 and phase 2 service. They then make a  
16 request to the cellular carrier and then that starts a  
17 six-month clock in order to comply. And that -- that clock  
18 runs for phase 1 and then when they make the notification  
19 that they're ready for phase 2 data, that six-month clock  
20 runs anew for the phase 2 implementation.

21 JUDGE DIPPELL: Okay. I think that's all the  
22 questions I had for you, Mr. Kurtis.

23 Commissioner Gaw, did you have anything  
24 further?

25 CHAIR GAW: Yes. Unfortunately.

1 QUESTIONS BY CHAIR GAW:

2 Q. Let me ask some general questions. The prices  
3 that are charged by Mid-Missouri Cellular, how do they  
4 compare with the prices that are charged by other cellular  
5 phone operators in that area? Are we talking about, you  
6 know --

7 A. I mean, I'm not exactly sure what the other  
8 charges are, but I'm sure they have to be competitively  
9 priced.

10 Q. And some of those other carriers -- so you  
11 think they're probably close to the same price?

12 A. I think they're probably comparable.

13 Q. And those other carriers include, I believe I  
14 heard earlier, Sprint and Verizon?

15 A. Correct.

16 Q. Is there a difference in the prices that  
17 Sprint charges its customers or Verizon charges its  
18 customers, to your knowledge, depending on where the -- the  
19 local number is that is affiliated with that phone line?

20 A. I -- I don't believe -- there may be  
21 nationwide regional differences, I don't know, but my  
22 understanding is that the price that Sprint is charging in  
23 Kansas City is the same price that they're charging in the  
24 adjacent market where we're at.

25 Q. So, in essence, Mid-Missouri Cellular, while

1       it is confined there to that -- what most people would  
2       consider a very rural area in Missouri, is, at least not in  
3       the price that it's charging, showing any difference to  
4       speak of, to your knowledge, between them and a carrier that  
5       has really a national scope?

6               A.       Right. And that's what's really putting the  
7       squeeze on the ability to continue providing the support --  
8       continuing to provide service to the more high-cost areas.

9               The large carrier has the ability to take a  
10       look at what its costs are to provide service in Kansas  
11       City, what its costs are to provide service in this  
12       particular area and average them out. Mid-Missouri Cellular  
13       is limited and its entire financial viability is tied to  
14       only this market.

15              Q.       And I believe I heard someone testify earlier  
16       that there were -- what did I hear? How many towers in this  
17       area for Mid-Missouri Cellular?

18              A.       Mid-Missouri Cellular has 26 in this area to  
19       be designated for an ETC and 1 additional tower that's just  
20       outside.

21              Q.       And were we informed earlier that that is a --  
22       that that number of towers is a fairly extensive number of  
23       towers for that size of a region in a rural area?

24              A.       Yes, sir.

25              Q.       So at least as far as the investment is

1       concerned up to this -- up to this point in time, the  
2       ability of Mid-Missouri Cellular to invest in infrastructure  
3       does not appear to be harmed by this difference that you say  
4       comes about between a carrier in a rural area as compared to  
5       a larger carrier that has bigger scope?

6             A.       That's -- a major portion of the testimony  
7       that I gave in-camera was explaining how that situation  
8       arose and how it differs in the current situation.

9             Q.       When you're talking about the reason for the  
10       high-- for the Universal Service Fund, in general again,  
11       there are two elements to it, as I understand it. One is  
12       the high-cost side and the other one is for -- for  
13       low-income or disabled individuals to have better access to  
14       phone service; is that correct?

15            A.       Correct.

16            Q.       When there is a -- in regard to the high-cost  
17       element, when we were just dealing with landline companies,  
18       there is a -- there is an element of obviousness, it strikes  
19       me, in regard to the amount of investment required in  
20       dealing with long wires without as many houses -- long  
21       distances of wires that are set up with fewer houses than  
22       urban areas. Correct?

23            A.       Correct.

24            Q.       You have this -- a similar argument in regard  
25       to a cell -- a wireless comparison in that to cover an

1 area -- a geographic area requires, I assume, similar number  
2 of towers for a similar area in a rural as opposed to an  
3 urban area. Correct? There's some similarity? I mean, may  
4 not be exact but --

5 A. In the rural areas you have more terrain  
6 issues and those kind of issues as well.

7 Q. But you have fewer customers?

8 A. Correct.

9 Q. So you can make the general assessment that  
10 there is some difference in the amount of support that you  
11 may be able to get from your customer base because of fewer  
12 customers existing in the rural area, similar to what you  
13 have in an urban area on the urban-to-rural comparison on  
14 the wireline side?

15 A. Yes, sir.

16 Q. How would I compare the amount of need or the  
17 amount of difference in investment required between a  
18 wireless carrier and a wireline carrier in a rural setting?

19 A. Well, I guess it would take some pretty  
20 detailed analysis. And that's exactly the type of thing  
21 that the Joint Board has been working on is, is it  
22 appropriate, for example, to look at a separate cost basis  
23 for a wireless versus a wireline carrier.

24 And those are issues that are teed up and will  
25 be decided and will apply to Mid-Missouri Cellular if there

1 is a change. For right now, they've decided that on an  
2 interim basis until the rules are changed, they will use the  
3 less level of support as the level for the customer wireline  
4 or wireless in that area.

5 It may ultimately be decided that that is or  
6 is not the best way to proceed on a go-forward basis, but  
7 that is the basis that we're all limited to applying at this  
8 point in time.

9 Q. So at the moment it is presumed, for the sake  
10 of distribution of funding, to be the same cost? The basic  
11 presumption is that until this additional study is  
12 completed --

13 A. Well, it's assumed that it's comparable on a  
14 per subscriber basis. In other words, if you may have a  
15 larger investment in the LEC than running the wire in a  
16 particular area, but there may be 3,000 subscribers in that  
17 area, there may be a cellular tower that's serving a  
18 comparable area and it may have 40 subscribers in that area.

19 So I think what they did is they came up with  
20 this is how we're going to start it. It may or may not be  
21 the appropriate way. At least for now, it has clearly been  
22 sustainable. The Universal Service Fund, the contribution  
23 factor, has actually been reduced twice in the last year the  
24 amount the carriers have to contribute to keep supporting  
25 the fund.

1                   So at least -- even with the additional ETCs  
2           that have been designated, it's not put the fund in jeopardy  
3           at this point in time, but everyone realizes that long term  
4           they need to do the type of analyses that you're talking  
5           about and not require each and every commission to go  
6           through it, but to come up with a federal standard on -- on  
7           what is going to be the basis for making that.

8                   And then once that's adopted, it applies  
9           across the board even to previously designated ETCs, whether  
10          they're LECs or wireless or CLECs.

11                  Q.       Okay. The amount of the -- and I know it's in  
12          testimony that the wireless carriers are contributing to the  
13          Universal Service Fund. Correct?

14                  A.       Correct.

15                  Q.       And in that contribution amount, is it also  
16          based upon the same principles as the wireline carrier's  
17          contribution?

18                  A.       Well, that is one option that the wireless  
19          carriers have an additional safe harbor option. In other  
20          words, instead of actually figuring out what is interstate,  
21          what is intrastate, they are able to take a fixed  
22          percentage, which the Commission just raised to -- as a  
23          recognition of what the additional burden has been on the  
24          USF fund and that's now 28 percent. So the wireless carrier  
25          can take 28 percent of the revenue as interstate and then



1 not have to go through the detailed analysis.

2 Q. Okay. So that's an option or election that  
3 the company can make?

4 A. That the wireless company can make.

5 Q. All right. The amount can be passed along to  
6 customers that you can -- that the companies contribute; is  
7 that correct?

8 A. That's correct.

9 Q. And is that amount set according to what the  
10 company desires it to be set at or is it set strictly by  
11 some designation of the FCC?

12 A. No. It's based at the quarterly contribution  
13 factor that the FCC announces.

14 Q. But how does that pass to the customer? What  
15 does the customer see as the charge? Is it always passed  
16 along as a line item?

17 A. Yes, yes. It's a specific line item on the  
18 bill.

19 Q. And how is the amount that each customer  
20 contributes determined?

21 A. I believe it's based on 28 percent of that  
22 customer's charges.

23 Q. But that's what you're saying if the election  
24 is done to just pay the 28 percent?

25 A. And Mid-Missouri Cellular does go with the

1 election.

2 Q. Okay. Other companies, if they don't make  
3 that designation, can they choose what they charge their  
4 customers?

5 A. They can go through the same analysis that the  
6 LEC does to determine the actual interstate portion of the  
7 calls.

8 Q. And then can they choose how they pass that  
9 along to their customers? Is that their option about how  
10 they collect that from their customers?

11 A. I believe it's the same thing. They're  
12 allowed to use the -- that particular number then as the  
13 basis for what they charge for that particular customer to  
14 make its contribution.

15 Q. We've had a number of questions and answers in  
16 regard to what conditions this Commission could set if we  
17 chose to award the ETC status to Mid-Missouri Cellular. But  
18 what's not been clear to me is whether or not there's any  
19 particular place that we could not go.

20 And so I feel a little bit like I'm swimming  
21 in the pool expecting to hit the end at any moment and  
22 hesitant that I'm going to run into that wall of concrete,  
23 but I just don't seem to hit it.

24 A. I think you have --

25 Q. I'm looking for some barrier here in regard --

1 to your opinion in regard to what this Commission cannot do  
2 in setting a condition to get the status designated.

3 A. The Commission cannot regulate rates, the  
4 Commission cannot do any regulation that impacts on market  
5 entry.

6 Q. Okay.

7 A. I think the -- what -- reading between the  
8 lines of the January 22nd order, what that order did is it  
9 looked for specific commitments from the carrier. And in  
10 this case, Mid-Missouri Cellular has made the comparable  
11 commitments.

12 And the only actual obligations that were  
13 imposed were imposed primarily in conjunction with those  
14 commitments. They have committed that they would do this if  
15 they get ETC status, we're making that a condition. So you  
16 don't get into the question of, well, did they have the  
17 authority, didn't they. The applicant came in and said, We  
18 will take it on this condition and the Commission said,  
19 Sold.

20 Q. Okay.

21 A. That's a similar situation that you have here.  
22 And, you know, we have even go so far as even though the  
23 Commission does not regulate rates, for the lifeline  
24 service, because it is a fundamental component of the USF,  
25 we have put into the record two of the lifeline plans that

1 we are going to offer that are lifeline only and commit to  
2 those.

3 So from that standpoint, I don't think the  
4 Commission could regulate rates. I think the Commission  
5 could certainly make the award of the ETC status contingent  
6 on Mid-Missouri Cellular providing those plans as it has  
7 committed to do.

8 Q. You don't believe that there would be a  
9 problem in imposing conditions in regard to quality of  
10 service that actually would reflect or be similar to the  
11 quality of service requirements on landline carriers that  
12 the Commission has in its rules?

13 A. There may be a problem going that route.

14 Q. Okay.

15 A. And, again, I -- I'm not familiar off the top  
16 of my head with the specific restrictions that you have  
17 here. But what you do have is that they -- Mid-Missouri  
18 Cellular has committed to doing a detailed quality program  
19 that Staff has -- we provided in the records the specifics  
20 of that.

21 And, you know, I think that that certainly is  
22 something that the FCC keyed on, and again, this Commission  
23 can key on as it being a commitment from the carrier that  
24 they're going to provide that.

25 Q. Can you explain to me fairly briefly what

1 the -- and you say the amount -- the contribution amount has  
2 been going down, as I understood you earlier, to Universal  
3 Service Fund from carriers; is that correct?

4 A. Yes.

5 Q. Can you explain to me what that is, why it's  
6 going down?

7 A. Well, what -- what happens is the Commission,  
8 they try to anticipate what the requirements are going to be  
9 for universal service. It's a function of projected  
10 revenues and projected subscriber counts.

11 The two things that I think have impacted  
12 dramatically the amount of money that's been raised by the  
13 Universal Service Fund has been the dramatic increase in the  
14 amount of wireless subscriber and the amount of second  
15 lines, if you will, for fax machines and Internet dial-up,  
16 those type things, coupled with the fact that the Commission  
17 increased the safe harbor for the wireless carriers from the  
18 previous level, and I believe it was 15 percent, but I  
19 may -- I may be mistaken as to that exact number, to  
20 28 percent.

21 So there was a significant additional amount  
22 of wireless revenues that were brought in to support the  
23 Universal Service Fund. And as a result, over the last  
24 three quarters, the FCC mandated contribution factor has  
25 actually been reducing as the number of ETCs has still been

1 increasing.

2 Q. How about the outflow of money from USF? Has  
3 it been decreasing or increasing?

4 A. That -- that is the point. The outflow in  
5 terms of the percentage of inflow has been decreasing --

6 Q. But --

7 A. -- the overall amount of dollars that is going  
8 out is increasing --

9 Q. Yeah.

10 A. -- but not at the same rate that the dollars  
11 that are coming in are increasing.

12 Q. Okay. If I were looking at this over the  
13 course of more than just the last three quarters, what would  
14 I see?

15 A. I think you would see that the contribution  
16 factor had been relatively stable, started to go up. Then  
17 the Commission rather quickly made the adjustment on the  
18 contribution factor -- I'm sorry, on the safe harbor for the  
19 wireless and then a dramatic turnaround on it.

20 Q. And what would I see just in terms of the  
21 outflow only, the dollars going out? Not the percentage in  
22 regard to --

23 A. The dollars going out have increased as the  
24 demands on universal service have increased. Not only from  
25 the designation of additional ETCs, but you have a lot of

1 non-supported LEC expenses that can legitimately be  
2 recovered from the Universal Service Fund.

3 For example, universal service broadband data  
4 services are not a service that is expressly supported as a  
5 USF mandate. However, it has been determined that where the  
6 network is upgraded to provide that capability incidental to  
7 the supported service, that the entire cost of that service  
8 on the LEC side can be added into the USF support.

9 And, you know, if you look at the amount of  
10 upgrades that have been made on the wireline side to be able  
11 to provide digital subscriber line and those types services  
12 in the rural area, again, seeking to give parity on these  
13 telecommunications services out there, it has definitely had  
14 an impact on the draw on the Universal Service Fund.

15 Q. Who manages that store?

16 A. Federal government.

17 Q. Which? Whose responsibility -- part of the  
18 question we have here from a very -- very high level of  
19 50,000-foot looking down on this is the question of whose  
20 responsibility is it to make sure the funds in the Universal  
21 Service Fund are used in the most appropriate manner and  
22 considering the fact that our consumers end up paying the  
23 tabs on it?

24 A. Primarily --

25 Q. Who manages that?

1           A.       Primarily --

2           Q.       Is that a responsibility of this Commission in  
3 any way in looking at this issue or is it entirely the  
4 responsibility of the federal government?

5           A.       No. It's -- it's a combined responsibility to  
6 the extent that they have established a Joint Board that is  
7 made up of both federal and state regulatory bodies to reach  
8 these kind of issues.

9                   That's -- when we're talking about waiting for  
10 the Federal State Joint Board on Universal Service to make  
11 its recommendations, that -- that's trying to get  
12 consideration of the federal and the state, although  
13 obviously all 50 states are not on the board. But -- so  
14 from that standpoint, that -- that's who's really holding  
15 the keys on it.

16                   And, you know, there are a number of policy  
17 issues. And, you know, we're not trying to mislead the  
18 Commission on that. And those issues may result in a  
19 considerable change even in the amount of money that  
20 Mid-Missouri Cellular is authorized to do.

21                   But what we have is a set of rules right now.  
22 And if we can get ETC status from this Commission right now,  
23 it will bring in substantial, badly needed funds to allow  
24 the enhancement of the network to provide these enhanced  
25 services, again, in the very rural areas of our marketplace



1       that the big carriers are not doing.

2                   If it turns out that that policy changes, the

3       Commission having acted now is not going to insulate

4       Mid-Missouri Cellular from those changes taking effect as

5       well. And, most importantly, not one cent of the money that

6       goes to Mid-Missouri Cellular is going to come out of the

7       local exchange carrier's Universal Service Fund on --

8           Q.       I've heard -- I've heard that --

9           A.       Okay.

10          Q.       -- a few times today. But it does come out of

11       somebody's pocket eventually somewhere?

12          A.       Right. And, again --

13          Q.       And that issue about who's watching over that

14       is of some concern to me.

15          A.       But that's primarily why one of the things the

16       Commission did is said, Right now, while we're reaching

17       these policy issues, we are going to nearly double the

18       contribution, the amount of money that the contribution is

19       based on for wireless carriers.

20                   So this growth that you've seen in the USF

21       fund has been substantially attributed to the wireless

22       carriers paying in. The amount of money that's coming out

23       by wireless carriers is -- is insignificant in comparison.

24          Q.       In reality though, it's the customers of all

25       these carriers that are paying the tab on this?

1           A.       In reality, it is absolutely the customers  
2       that have to pay the expenses of universal service that --  
3       with the lower cost customers subsidizing the service in the  
4       high-cost areas.

5           Q.       So if that's the case, then what is  
6       Mid-Missouri Cellular representing to this Commission that  
7       it will do for the consumers in the yellow area that they  
8       would not otherwise do, and how do we assure ourselves that  
9       that will actually be done in a way that can be enforced  
10      later?

11          A.       Well, I -- I think during my in-camera  
12      testimony I gave specific deployments of what Mid-Missouri  
13      is looking to do. We've made commitments --

14          Q.       And I apologize. I'm going to have to review  
15      that portion of the testimony.

16          A.       I understand.

17          Q.       And I will do that. But when you say that, I  
18      need to know, are those things that you would not -- that  
19      Mid-Missouri Cellular would not otherwise do?

20          A.       Yes. That's -- that was what I testified to.

21          Q.       All right. That's what I needed.

22                    Okay. Go ahead. I'm sorry to interrupt you.

23          A.       I think I've answered your question.

24                    CHAIR GAW: Okay. I think that's all I have,  
25      Judge. Thanks.

1                   Thank you, sir.

2                   THE WITNESS: Thank you.

3                   JUDGE DIPPELL: Commissioner Murray, you had

4 another question?

5 FURTHER QUESTIONS BY COMMISSIONER MURRAY:

6           Q.       Just one quick follow-up to something Judge

7 Dippell asked you. It started me wondering.

8                   It's possible for a customer to get Universal

9 Service Funding support for two wireline connections in the

10 same residence. Right?

11          A.       Yes.

12          Q.       And now you're saying that if we grant

13 wireless carriers ETC status, that it will be possible for a

14 customer to have two wireline connections and one -- at

15 least one wireless connection all supported by USF?

16          A.       The same as if they would add a third wireline

17 phone.

18          Q.       Would they get support from a third wireline

19 phone today?

20          A.       My understanding is that none of the rural

21 carriers charge a non-supported rate for additional lines.

22          Q.       That was one of my pet peeves. I had

23 forgotten that ended up that way. That's very

24 disappointing.

25                   But then also how many wireless connections

1       could -- or how many wireless phones could they have?

2               A.       Well, I mean, to the extent that the customer

3       is willing to purchase these additional facilities and has

4       the need for those additional lines, they would all be

5       subject to going into the USF base.

6               But the significant thing is if you take a

7       look at the rural versus the urban area -- look at a

8       business application, for example, If you're establishing a

9       business in metropolitan Kansas City and you have six phone

10      lines for that -- for that business, you're paying the

11      business rate for each of those lines.

12              If that business moves out to a rural area and

13      you only want to support the first line, what you're really

14      saying is that, well, if the true cost of providing service

15      is 50 or 60 dollars a line per month higher, than for that

16      same business we're only going to give them a competitive

17      rate, a comparable rate for the first line. And what you --

18      what you inadvertently do is you chill business development

19      in the rural areas.

20              So, you know, there are reasons why multiple

21      lines -- why the support has not been restricted to the

22      primary line. I can tell you that that is one of the issues

23      that is presently before the Federal and State Joint Board

24      to discuss as well.

25              Q.       Good.

1           A.       Because those are real issues.

2           Q.       I'm glad it's before them.

3                    COMMISSIONER MURRAY: Thank you very much.

4                    THE WITNESS: Yes, ma'am.

5                    JUDGE DIPPELL: I believe that's all of the

6 Commission questions. Are there questions -- further

7 cross-examination based on questions from the Bench from I

8 guess Office of Public Counsel?

9                    MR. DANDINO: I have no questions.

10                   JUDGE DIPPELL: Staff?

11                   MR. POSTON: No questions.

12                   JUDGE DIPPELL: Alma?

13                   MR. ENGLAND: I have a few.

14                   JUDGE DIPPELL: Is it extensive or is it truly

15 just a few?

16                   MR. ENGLAND: Well, I can I think do it in

17 three, but depending on the answer it may take a couple of

18 follow-ups.

19                   JUDGE DIPPELL: And, Mr. Stewart, will you

20 also have --

21                   MR. STEWART: I have no questions.

22                   JUDGE DIPPELL: Then, Mr. England, come on up.

23                   MR. ENGLAND: I'll take Door No. 3, your

24 Honor.

25                   JUDGE DIPPELL: Come on down.

1                   And the door I believe at the back of the  
2                   hearing room has been locked now. So you may leave, but you  
3                   won't be able to get back in through that door if you go  
4                   out.

5                   MR. ENGLAND: Thank you, your Honor.

6                   FURTHER CROSS-EXAMINATION BY MR. ENGLAND:

7                   Q.       Mr. Kurtis, early on in your questioning from  
8                   the Bench I believe Commissioner Murray asked you a question  
9                   regarding paragraph 29 of the FCC order. And there was a  
10                  sentence in there to the effect that Virginia Cellular has  
11                  committed to serve residences to the extent that they do not  
12                  have access to the public switched network through the  
13                  incumbent telephone company.

14                  Do you recall that?

15                  A.       Yes.

16                  Q.       And you're not aware of any instance where  
17                  residences in either the Alma or Citizens service area do  
18                  not have access to the public switched network, are you?

19                  A.       I'm not aware.

20                  Q.       Okay. Commissioner Gaw asked you some  
21                  questions very recently about the USF, and you indicated the  
22                  new safe harbor for the wireless carrier has increased to  
23                  28 percent. I'd like to bring that back to an example, if I  
24                  can.

25                  So if, for example, the wireless revenue from

1 a particular customer is \$100, you can assume for safe  
2 harbor purposes that 28 of those dollars are interstate  
3 dollars; is that right?

4 A. Correct.

5 Q. And then you apply the 8-dot-whatever percent  
6 factor to that to determine the contribution?

7 A. Yes.

8 Q. Okay. And then finally, again, Commissioner  
9 Gaw asked you about what the Commission can't do as far as  
10 imposing certain conditions on an ETC. Would you agree with  
11 me that the Commission can't impose conditions that are not  
12 competitively neutral?

13 A. I think that's accurate.

14 MR. ENGLAND: Okay. Thank you. No other  
15 questions.

16 JUDGE DIPPELL: Thank you. Mr. Stewart,  
17 you're still holding true to no questions?

18 MR. STEWART: No questions.

19 JUDGE DIPPELL: Is there redirect?

20 MR. DEFORD: None.

21 JUDGE DIPPELL: You're making my day.  
22 Okay. We're going to call it a night.

23 Mr. Kurtis, I believe that's all the questions for you and  
24 you may be excused.

25 THE WITNESS: Thank you.

1 JUDGE DIPPELL: So thank you for testifying.  
2 We will begin again tomorrow at 8:30 a.m., and  
3 we will begin I guess with Staff's witness in the order that  
4 we have. We can go off the record.  
5 WHEREUPON, the hearing was adjourned until  
6 8:30 a.m., January 29, 2004.  
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