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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS
Public Hearing
August 2, 2012
Jefferson City, Missouri
Volume 1

In the Matter of Proposed)
Amendments to Amend) File No. TX-2012-0392
4 CSR 240-31.010 Missouri)
Universal Service Fund)

MORRIS L. WOODRUFF, Presiding,
CHIEF REGULATORY LAW JUDGE.

STEPHEN M. STOLL,
COMMISSIONER.

1 APPEARANCES:

2 CRAIG JOHNSON, Attorney at Law

Johnson & Sporleder

3 304 East High Street, Suite 200

Jefferson City, MO 65102

4 (573)632-1900

FOR: Missouri Independent Telephone Group.

5

CHRISTINA BAKER, Assistant Public Counsel

6 Office of the Public Counsel

P.O. Box 2230

7 200 Madison Street, Suite 650

Jefferson City, MO 65102

8 (573)751-4857

FOR: Office of the Public Counsel

9 and the Public.

10

11 COLLEEN M. DALE, Senior Counsel

12 Missouri Public Service Commission

13 P.O. Box 360

14 200 Madison Street

15 Jefferson City, MO 65102

16 (573)751-3234

17 FOR: Staff of the Missouri Public

18 Service Commission.

19

20 REPORTED BY:

21 KELLENE K. FEDDERSEN, CSR, RPR, CCR

22 MIDWEST LITIGATION SERVICES

23 711 NORTH ELEVENTH STREET

24 ST. LOUIS, MO 63101

25 (314) 644-2191

1 P R O C E E D I N G S

2 (WHEREUPON, the public hearing began at
3 10 a.m.)

4 JUDGE WOODRUFF: Let's come to order,
5 please. Good morning, everyone. Welcome to our public
6 comment hearing regarding a proposed rulemaking that the
7 Commission has proposed. It's File No. TX-2012-0392.
8 It's a proposed amendment to 4 CSR 240-31.010 regarding
9 the Missouri Universal Service Fund.

10 We'll begin today by taking entries of
11 appearance for the attorneys who are here representing
12 parties, and then we'll go ahead and take public comments.
13 So let's begin with Staff.

14 MS. DALE: Thank you. Colleen M. Dale on
15 behalf of the Staff of the Missouri Public Service
16 Commission, Post Office Box 360, Jefferson City, Missouri
17 65102.

18 JUDGE WOODRUFF: Thank you. Public
19 Counsel?

20 MS. BAKER. Thank you. Christina Baker,
21 P.O. Box 2230, Jefferson City, Missouri 65102, appearing
22 on behalf of the Office of the Public Counsel and the
23 customers.

24 JUDGE WOODRUFF: All right. Any other
25 attorneys here representing parties?

1 MR. JOHNSON: Craig Johnson, Johnson &
2 Sporleder, 304 East High Street, Jefferson City, Missouri,
3 here today on behalf of the Missouri Independent Telephone
4 Group, which is five companies.

5 JUDGE WOODRUFF: Okay. Mr. England?

6 MR. ENGLAND: Just an interested bystander,
7 your Honor.

8 JUDGE WOODRUFF: Okay.

9 MS. KILPATRICK: Interested bystander as
10 well, sir.

11 JUDGE WOODRUFF: All right. Well, then,
12 let's go ahead and let all the parties who are entered,
13 does anyone wish to offer comments today? I know I
14 already have written comments from AT&T Missouri, and
15 they're not here today, but --

16 MS. DALE: You should also have written
17 comments from Staff.

18 MS. BAKER: And Public Counsel will have
19 comments. I have Barb Meisenheimer coming down. She's
20 not here quite yet.

21 MS. DALE: And we would like to go after
22 Ms. Meisenheimer, we have witnesses, because we want to
23 address what we understand she will be concerned about.

24 JUDGE WOODRUFF: All right. Well, is there
25 anyone else that wants to offer any comments while we're

1 waiting for Ms. Meisenheimer?

2 (No response.)

3 JUDGE WOODRUFF: All right. We'll go off the
4 record while we wait.

5 (AN OFF-THE-RECORD DISCUSSION WAS HELD.)

6 JUDGE WOODRUFF: Ms. Meisenheimer is here,
7 and Public Counsel, go ahead and make your comments
8 however you'd like. We don't need to swear her in since
9 this is a public comment hearing.

10 MS. BAKER: I'll let her start. I think
11 our comments are basically focused on the definition of
12 the essential local telecommunications proposed change.

13 MS. MEISENHEIMER: My name is Barbara
14 Meisenheimer. I've worked for the Missouri Office of
15 Public Counsel since 1996. I at one time served on the
16 Federal Universal Service Joint Board staff. I have
17 served on the Missouri staff for the Universal Service
18 Board since it began.

19 So I have some experience with this, and
20 I'm here primarily today to describe for you some of the
21 concerns that I have specifically about one element of the
22 revisions, and that relates to eliminating the definition
23 of essential local telecommunications services from the
24 definitions in the rule.

25 Instead of eliminating those definitions

1 from the rule, I would instead suggest that you keep the
2 definition of essential local services as it appears and
3 add an additional item in that section which says that for
4 purposes of federal universal service support, this is
5 synonymous with voice telephony services.

6 The suggestion by, I think, AT&T was that
7 you would eliminate the entire definition of essential
8 local services and simply make the substitute that links
9 it to Section 17 of the proposed rule.

10 And the reason that I think that you should
11 not eliminate the rest of that section on essential local
12 telecommunications services is because this isn't a
13 definition which is isolated in its application to this
14 single section of your rules. And so I've prepared for
15 you a list of where else it appears, and I'd like to give
16 you some comments on that.

17 JUDGE WOODRUFF: Okay.

18 MS. MEISENHEIMER: All right. But I do
19 want to make it clear that I recognize that federal
20 universal service support, it is the fed's job to
21 determine how that is apportioned and to what services
22 they apply support. So I'm not trying to disagree that
23 the federal jurisdiction should apply with respect to
24 federal universal service money.

25 I'm here to talk about that within the

1 state of Missouri we have a distinct responsibility to
2 ensure the provision of universal services that benefits
3 greatly our rural areas in Missouri and that you
4 established rules a long time ago about the process that
5 would be used to review essential local service
6 definitions in the state of Missouri and to what services
7 it would apply.

8 JUDGE WOODRUFF: So you're saying the
9 broader definition of essential services would apply to
10 state universal service funding?

11 MS. MEISENHEIMER: Yes.

12 JUDGE WOODRUFF: But not to federal?

13 MS. MEISENHEIMER: I'm concerned about you
14 eliminating that definition with respect to state funding
15 and the state process to determine what services are
16 supported. So I'm limiting my comments to that.

17 All right. In your existing rules, the
18 term essential local services appears in many places.
19 Beginning with Chapter 31.010, it appears in subsection 3,
20 4, 6, 9 and 11. It is related to what costs are
21 supported, and the cost of essential local services
22 includes the cost of things other than just a basic
23 connection to the network.

24 Under the existing definition of essential
25 local services, some of the parts that are included are

1 that access to basic local operator service. That doesn't
2 require a company to actually provide the customer with an
3 operator service. It simply says the customer can get to
4 one, whether it's a company provided one or whether it's
5 an alternative provider. So it gives a customer access,
6 and that in theory is supposed to be supported in terms of
7 the discount that companies get to provide to low-income
8 and disabled customers, a discount on their bill.

9 Another item is basic -- or access to basic
10 local directory assistance. That says that a customer has
11 at least the ability to access a provider of that service.

12 Another is equal access to interexchange
13 carriers, and this to me is most relevant in the case of,
14 let's say, for example, you're talking about an area in
15 our state that is not yet open to competition, where we
16 have rate of return regulated incumbent local providers.
17 Out in the rural areas of Missouri, while there is
18 wireless service available in a lot of areas, some areas
19 are remote, they don't have good signals, and so they
20 really -- the existence of the incumbent local provider is
21 very important to those customers.

22 Equal access to an interexchange carrier
23 ensures that when that local customer who's still a
24 subscriber to the basic landline service available to or
25 available from their incumbent provider, that they will at

1 least have the ability to reach an alternative company to
2 provide long distance services.

3 The customer, you know, certainly may
4 subscribe to a different carrier and they have to pay the
5 bill for that. I'm not suggesting that the local
6 incumbent carrier should have to necessarily pick up the
7 tab for customers' long distance services. I'm saying the
8 customers should have access to it.

9 And another item is one standard white page
10 directory listing. The phone books that exist, I know
11 that we're moving to an age of technology where some
12 people use the Internet to find information about numbers
13 that they can reach locally. I know that AT&T is no
14 longer required to, for example, is no longer required to
15 provide directory, but this ensures that the customer at
16 least is listed in a directory. And so that's an element
17 that they currently receive today of essential local
18 services.

19 And it may be that at the federal level --
20 and I'm sure folks will respond to me if they disagree,
21 but it may be that at the federal level some of these
22 things are accounted for in other sections, for example,
23 equal access, but other elements I think are probably
24 Missouri specific.

25 We determined in a -- you determined, the

1 Commission, in a case a long time ago, and all of us or
2 many of us worked on it, that there were some basic
3 elements of service that we wanted to ensure were
4 available in all areas of our state to all customers of
5 our state. And I think that it's important that before we
6 eliminate that definition, which is an integral part of
7 other sections of your rules and referenced in statute,
8 that we take a step back and maybe do it in a process
9 where we spend more time at it and look at all the
10 interrelationships.

11 So let me go ahead and give you that --
12 continue the list. So I think I talked about that it
13 appears in 31.010 in numerous sections. It also appears
14 in 31.020. It appears in 31.040, part 1A. It appears in
15 31.050 in three different parts. It appears in 31.080.
16 And many of these relate to just how our fund is set up
17 and is run and eligibility criteria and that type of
18 thing.

19 Another section where it appears, and this
20 one I ask you to take note of specifically, is that it
21 appears in 31.100, and that is a section which describes
22 the procedure by which the Commission originally
23 determined that it would review the definitions of
24 essential local services.

25 There was actually a process that within no

1 less than I think every three year -- no more frequently
2 than every three years the Commission would review the
3 definition of essential local services, but that section
4 is, I think, fairly detailed and is critical in giving a
5 process by which we can look to all areas of the state and
6 ensure that all customers of the state have access to a
7 basic array of services that are similar to what's
8 available in our urban areas. So I would encourage you to
9 consider that section specifically in this rulemaking.

10 The statute referenced to essential local
11 services appears at -- it's Missouri Revised Statute
12 August 2011, Section 392.248.

13 And just in closing, as I said, a long time
14 ago I was on the Federal Universal Service Joint Board
15 Staff and worked with developing the initial, and since
16 then others have served on that same staff and are
17 probably more familiar with the most current requirements,
18 but back then, when it was established, one of the key
19 themes was that there was a responsibility, not only by
20 the -- by the federal jurisdiction, but a responsibility
21 at the state jurisdiction to ensure the availability of
22 basic services, universal services for customers with --
23 the FCC recognized it in their writeups of orders, and our
24 state recognized it in establishing a statute that created
25 a Universal Service Board and fund to ensure the provision

1 of essential local services.

2 So I just think that to eliminate this
3 section entirely at this time is something that would be
4 detrimental and that would have an impact on other
5 elements of the rules which are not being addressed right
6 now. So I would prefer, as I said originally, to have
7 you, instead of eliminating essential local
8 telecommunications services as it appears and including
9 the recommended phrase "this is synonymous with voice
10 telephony service", I would instead encourage you before
11 that addition to add a phrase that says "for purposes of
12 federal universal service support", so that we still
13 maintain our definition but we allow the federal money and
14 the federal process of distributing money to occur as the
15 fed intends, as the FCC intends.

16 JUDGE WOODRUFF: I'm looking at the
17 proposed amendment, and subsection 6 is where the current
18 definition is being removed, correct?

19 MS. MEISENHEIMER: Yes.

20 JUDGE WOODRUFF: That's where you'd be
21 adding the extra --

22 MS. MEISENHEIMER: Yes. The deletion
23 marks, I would take those out, and at the end where
24 they've added the suggested language, before that language
25 I would add the phrase "for purposes of federal universal

1 service support". That allows us to use federal money as
2 it's intended and I think allows the State to continue to
3 use state money in the way it was intended until we have
4 an opportunity to spend more time on the issue.

5 Thank you very much for allowing me to,
6 No. 1, be late, and No. 2, to describe these concerns that
7 we have.

8 JUDGE WOODRUFF: Commissioner Stoll, do you
9 have any questions?

10 COMMISSIONER STOLL: No. I understand the
11 issue, and certainly I'm not sure what the -- take this
12 under consideration as we move forward with this then.

13 JUDGE WOODRUFF: Does Staff wish to
14 respond?

15 MS. DALE: Yes, we will be responding. I
16 will be responding, as well as Natelle Dietrich and John
17 Van Eschen.

18 The first thing that I want to say is that
19 we are -- we have almost completed the rewrite of the
20 chapter. So we will be following very closely on the
21 heels of this rulemaking with another chapter-wide rewrite
22 that not only includes Chapter 31 in its entirety but
23 there's an odd rule in Chapter 3, I believe, that we're
24 moving into Chapter 31 so that everything about the USF is
25 in one place and so that it reflects what's actually

1 happening now.

2 Substantively, I think that we need to
3 remember that since this rule was written, on a statewide
4 basis the rules pertaining to what the Staff can require
5 companies to provide have changed significantly.
6 Essentially we're left with safe and adequate service as
7 our only enforcement tool for companies. As a result, it
8 seems unreasonable to have all these in here. If
9 companies are providing landline service, they're probably
10 providing all of these things already. It would be our
11 argument for some of these that it wouldn't be safe and
12 adequate if they didn't provide them.

13 And the other thing is the need to be
14 consistent with the federal requirements. As we've seen
15 with other things like the forms, the more things that we
16 keep specific to Missouri, the more complicated and
17 unworkable the system becomes.

18 And I think in this case we need to have a
19 consistent definition of what service is covered, both
20 federally and state. We already have the difference with
21 wireline can -- only wireline can get state service, state
22 support, so that the federal wireless support that does
23 not offer these things can't reach the companies anyway,
24 can't reach those companies that do not offer these
25 things, the wireline companies.

1 So having said all that, I'm going to turn
2 it over to Natelle and John for more specifics.

3 MR. VAN ESCHEN: Yeah. My name is John
4 Van Eschen. I work in the telecommunications unit of the
5 MoPSC.

6 A couple of things I'll respond. I think
7 that the basic issue I think OPC is bringing up is
8 maintaining the definition for essential local
9 telecommunications service, and that term under the
10 proposed amendment would still be in the rule. It would
11 just reference voice telephony service and that
12 definition.

13 That was done to try and bring some
14 consistency and clarity in the application of the rules at
15 least for the purposes of administering the Lifeline
16 program.

17 I think it's important to keep in mind the
18 context that this particular definition applies to. This
19 is a definition that is in Chapter 31 which solely
20 pertains to universal service funding, and in particular
21 Missouri -- Missouri's Universal Service Fund solely
22 provides funding for low-income and disabled customers.

23 So I think, if it's fair to characterize
24 OPC's concern, it's to the respect that, well, it looks
25 like under the proposal that things like directory

1 assistance, operator services would no longer be
2 available, and I guess to a certain extent that might be
3 true to the extent that it's provided through Lifeline and
4 disabled customers. This particular definition is not a
5 blanket requirement for everybody to be providing these
6 services. It's solely in the context of Universal Service
7 Funding.

8 Perhaps the definition would be more
9 significant if the Missouri Universal Service Fund
10 provided high cost support, but so far the Missouri
11 Commission has not expanded Missouri USF funding for high
12 cost support.

13 So for a lot of the references in the rule
14 that OPC was talking about that this term is used here and
15 there throughout Chapter 31, a big part of the chapter has
16 to do with high cost support, and essentially those rules
17 are not applying anyway, simply because they're put in
18 place in the event that the Commission wanted to implement
19 high cost support funding.

20 As Cully mentioned, we're in the process of
21 rewriting those rules, and I think that issue at least for
22 high cost support funding will be addressed. But I think
23 maintaining definitions of -- two different definitions of
24 the services that a company needs to provide to Lifeline
25 customers creates a complicated situation where

1 Missouri's -- and that could be done, but it complicates
2 it in different ways, and in particular, I'm not sure how
3 it would really be applied.

4 A lot of the -- well, if a company wants to
5 receive USF funding, they need to receive status as an
6 eligible telecommunications carrier, and they need to meet
7 certain requirements. One of those requirements is that
8 the carrier provides service using its own facilities.
9 A significant concern of the FCC when they reformed the
10 Lifeline program was the fact that there were a lot of
11 companies that obtained ETC status under that facility-
12 based requirement by providing their own facilities for
13 things like directory assistance and operator services, a
14 very small component of the service.

15 And so if we maintain the definition for
16 essential telecommunications services, I'm not quite sure
17 how that -- how that could really be done in a clear and
18 consistent way with the FCC.

19 I might point out that there is another
20 rule in Missouri PSC's rules, it's 4 CSR 240-32.100, and
21 this rule prescribes the minimum service features for
22 basic local and interexchange service. And so if the
23 Commission is really interested in applying minimum
24 standards that if you're going to be providing basic local
25 telecommunications services and interexchange

1 telecommunications services in Missouri, we expect these
2 minimum features to be in there, that in my opinion is the
3 rule where the Commission ought to focus its attention,
4 not on this particular rule in Chapter 31.

5 I might also point out that Missouri law in
6 Section 392.361.8 has declared things like operator
7 services, directory assistance services to be competitive
8 services, and although that doesn't necessarily address
9 the issue of whether companies need to provide the
10 services or not, there are at least in the state
11 legislature's eyes significant competitive alternatives
12 out there for things like operator services and directory
13 assistance services.

14 I think all in all, we'd like to see
15 greater consistency somewhat with the FCC's recent reforms
16 to the Lifeline program, and I think what has been
17 proposed with this rulemaking is a small step in that
18 direction. I don't know Natelle or Cully wants to add
19 anything.

20 MS. DALE: There is something I do want to
21 say. In the interest of legal full disclosure, the
22 definitions in Chapter 32 and other places in Missouri law
23 are largely, as I already said, unenforceable. We're left
24 with safe and adequate as our only standard.

25 In this instance, we have an incentive that

1 we can withhold if companies do not offer these services.
2 Now, I don't have the same -- I believe that voice
3 telephony services definition, which includes toll
4 limitations and access to 911 and those kinds of things
5 cover all the important ones. I think that access to
6 directory assistance and those kinds of things aren't
7 necessarily what I consider to be essential
8 telecommunications services.

9 However, if the Commission does believe
10 that those are essential and necessary for customers to
11 have, the only way you're going to be able to have any
12 real hook is to have it in a definition where you can
13 withhold funds if they don't comply, because in the other
14 chapters, I'm not sure how enforceable those requirements
15 are anymore in light of the recent amendments to 392 and
16 386. So that's my legal disclosure.

17 JUDGE WOODRUFF: All right. And is Staff
18 contemplating any sort of revisions like that in the rest
19 of the rule revisions that you talked about to try and
20 enforce such a requirement?

21 MS. DALE: Yes. We are requiring all kinds
22 of new and different things, but I have to say that we did
23 not feel that this was something that we could really --
24 or really wanted to go to the mat on. The things that we
25 consider to be essential are included in voice telephony.

1 It's just a difference of opinion on what we think is
2 essential.

3 MS. DIETRICH: And if I might? Natelle
4 Dietrich, Director of Tariff, Safety, Economic and
5 Engineering Analysis for the Commission.

6 In response to your question also, Judge
7 Woodruff, some of the language that we're contemplating in
8 the proposed rulemaking specifically addresses the
9 Commission's ability to withhold state USF funding, and
10 since the Commission obviously doesn't have control over
11 the federal fund but makes recommendations and comments
12 and that type of thing to the FCC and the Universal
13 Service Administrative Company, it includes language in
14 there about the Commission's ability to make those
15 recommendations to withhold funding.

16 MS. DALE: And withhold funding pending
17 investigations and some other things. So we do -- we do
18 see the withholding of funds as just about our only
19 incentive to do a lot of these things right now. But like
20 I say, it really comes down to us having a difference of
21 opinion with OPC about whether these really are essential.

22 If the Commission agrees that they really
23 are essential, then I would say that the best place -- the
24 best thing to do is to keep them in the definition here so
25 that the funding can be used as an incentive. If the

1 Commission does not agree, then this should come out and
2 we should just stick with voice telephony service. But
3 that I think is where the decision is. What you guys have
4 to decide is, is it -- is this really necessary or is what
5 the feds have proposed enough, but --

6 JUDGE WOODRUFF: So if the Commission
7 agrees with Ms. Meisenheimer, her suggestion of adding a
8 clause to Section 6 and leaving that language in there
9 would be the appropriate way of doing it?

10 MS. DALE: Actually, we would think that
11 you would want to add an introductory clause. In
12 addition, if you just do that, a lot of the -- a lot of
13 the language is redundant with what's included in voice
14 telephony service. So you wouldn't want to just say for
15 federal USF support it's this because we want -- we want
16 essential local telecommunications to include voice
17 telephony services as defined below and for federal -- for
18 Missouri Universal Service Fund to also include X service
19 and X service, would be the way I would do it.

20 MS. BAKER: And I guess I just want to
21 point out that this difference of opinion between the two
22 of us was contemplated, and that's what 31.100 is for.
23 That's where the process goes as to what is the essential.
24 It's not -- we don't want to hold up the other portions of
25 this rulemaking because of this one issue, which was

1 contemplated and we have a procedure to go to.

2 All we're asking is leave it as it is right
3 now, let's use the procedure, and then we can decide how
4 the essential services have changed throughout the changes
5 within the federal realm and how that affects Missouri.
6 That's where the procedure is.

7 I think that this particular rulemaking
8 procedure, this issue is maybe a little bit too big for
9 that at this time.

10 MS. MEISENHEIMER: I just wanted to respond
11 to a few of the things. One specifically is I think John
12 was talking about if he could characterize our position,
13 and I don't think it was a fair characterization of our
14 position, the description that he gave.

15 My concerns are not simply limited to the
16 provision of low-income and disabled support. What I was
17 trying to point out by giving you the list of places where
18 this term appears is that it is also related -- I
19 recognize that we do not today have a high cost fund, but
20 we still have -- you still have the ability and rules set
21 out about what you would consider in the event that you
22 determine a high cost fund is necessary. We have a number
23 of rules that reference this phrase, and I just don't feel
24 like at this point we have given those a thorough look.

25 With respect to all the different

1 definitions that we have, yes, we have different
2 definitions. We have a definition of basic local service.
3 We have a definition of essential local service. We have
4 this definition of voice telephony service. So I
5 recognize that we have complicated rules, but each of
6 those was developed originally for a purpose, and we're
7 willing to work toward reviewing in a broader scale the
8 entirety of these rules and to try to whittle down to the
9 minimum necessary in terms of these different rules. I'm
10 just suggesting that this very limited look at one section
11 isn't the place to do it.

12 So we're -- we're not saying that we
13 wouldn't consider revising the definition of essential
14 local services as it is anticipated to be reviewed and
15 revised within Section 31.100.

16 Also, I just wanted to respond to a couple
17 other things, that companies are not necessarily obligated
18 to provide the list of things in essential local services.
19 If they want this additional payment from the state for
20 providing an extra measure of service to Missouri
21 customers that ensures that those customers have access to
22 these things which we view as essential, then they get a
23 payment for it in terms of being able to give their
24 customers the discount on their bill with respect to the
25 low-income and disabled fund or, anticipated originally by

1 potentially a high cost fund as well, then it was going to
2 be a payment for having the facilities to provide these
3 additional things.

4 So I don't view it as creating a legal
5 obligation for companies to provide more. I instead view
6 it as this is an additional incentive payment to provide a
7 higher level of service.

8 And then finally, there was discussion of
9 withholding money, and I just wanted to clarify that it's
10 my understanding withholding of money is really referring
11 to federal money that we are designated to determine the
12 eligibility of companies to receive from the federal
13 level. So we could -- by determining they're not
14 providing the right services, we could withhold their
15 ability to receive federal funding.

16 At the state level, it's not, from my
17 perspective, an issue of withholding Missouri universal
18 service support. Instead, as I just mentioned, I view
19 that as an incremental payment for a higher level of
20 service.

21 And so I think that those are my responses
22 to what I heard.

23 JUDGE WOODRUFF: Ms. Dale, I have a
24 question for you also. This definitional change on
25 essential local telecommunications services, is this part

1 of the emergency rulemaking that was undertaken at the
2 same time or is this different from that?

3 MS. DALE: I don't know for certain. It
4 was just the -- yeah, it was adding the 135 percent.

5 MS. BAKER: It was not there.

6 JUDGE WOODRUFF: Would it be practical to,
7 from the Staff's viewpoint, to punt this issue until the
8 broader review of the regulation that you've talked about
9 earlier is accomplished?

10 MS. DALE: The consensus over here in the
11 corner is, yes, that we could. As long as we leave voice
12 telephony services in there, we could --

13 JUDGE WOODRUFF: You would leave 17 in
14 here, which is the definition of voice telephony services?

15 MS. DALE: Yes, except that it will change
16 the numbers, but --

17 JUDGE WOODRUFF: And 6 would remain as it
18 is?

19 MS. DALE: Well, we'd still have to have --

20 MS. BAKER: I just wanted to point out, in
21 Staff's comments about these rules that were filed
22 yesterday, they said that consistency with the federal
23 rules can be achieved if the Missouri Commission
24 incorporates the FCC's definition, and that's why we put
25 in the recommendation that we did of the language of for

1 federal universal service supports, and so we tried to
2 help with that. But we would be -- we would be willing to
3 look at any language that they think would help to
4 incorporate, not replace.

5 JUDGE WOODRUFF: Okay. Have you reached
6 consensus, Staff?

7 MS. DALE: Okay. We think that the cleaner
8 way to do it for now is to leave 6 as it is without any
9 additions or deletions.

10 JUDGE WOODRUFF: So you take out the
11 addition of this is synonymous with voice telephony
12 service?

13 MS. DALE: Exactly. And then leave 17 in
14 as is.

15 JUDGE WOODRUFF: The definition of voice
16 telephony service?

17 MS. DALE: Right. And since we expect to
18 have the rewrite finished within the next couple of weeks,
19 we don't know exactly what pancaking provisions will
20 apply, but I think since we're not amending that section
21 or that paragraph, we'll be able -- no, it's a section --
22 we'll be able to fool with it even while this proposed
23 amendment is still pending.

24 JUDGE WOODRUFF: Now, let me ask you,
25 Staff -- I kind of brought this up, so I don't want to put

1 a position on you. What is Staff's position? Would you
2 prefer --

3 MS. DALE: The Staff's position is we would
4 prefer a single definition that is voice telephony
5 service.

6 JUDGE WOODRUFF: Okay. Which is what your
7 proposal is?

8 MS. DALE: Which is what our proposal is.

9 JUDGE WOODRUFF: But you're saying as an
10 alternative, if the Commission --

11 MS. DALE: If the Commission determines
12 that access to operator services and white pages listings
13 are essential telecommunications services, then leave it
14 and we'll monkey with it as we need to.

15 JUDGE WOODRUFF: Okay.

16 MS. DALE: So it's really up to the
17 Commission whether or not they consider that, those things
18 essential, because keep in mind that many of the things
19 that are in 6 are also in 17. So there's some overlap,
20 not entirely.

21 JUDGE WOODRUFF: Okay. Commissioner Stoll,
22 did you have any questions?

23 COMMISSIONER STOLL: I guess regarding the
24 definition of essential local services, since that is
25 referenced in other places, how does Staff feel about

1 removing that definition? How would that affect the
2 understanding of essential local services in other places?

3 MS. DALE: We're actually not removing the
4 definition. We're simply saying that essential local
5 services is synonymous with voice telephony service.

6 COMMISSIONER STOLL: Right.

7 MS. DALE: So we won't be -- so it isn't
8 actually removing it. But the other thing is that in
9 light of -- most of the time it's used in connection with
10 high cost support, and what Staff's going to be doing is
11 taking out the high cost support rules because we don't --
12 the Universal Service Board hasn't done that yet. In the
13 event that the Universal Service Board decides to do a
14 high cost fund, the rules will be need to be revamped
15 anyway.

16 MS. BAKER: And our statement is that it is
17 much more inherent in 31 than just high cost. I mean,
18 specifically 31.050, it mentions that definition and
19 that's eligibility for funding for low-income customers.
20 Since it is so broad within 31 and we have a procedure for
21 determining what the definition is, we really would urge
22 the Commission to leave it as it is and let's use the
23 procedure that's in the statute or in the rules.

24 MS. MEISENHEIMER: We haven't had a chance
25 yet to view what the Staff is going to propose for future

1 changes. So it's very difficult for us to at this point
2 say, yes, that's fine, it won't be a big deal anymore,
3 because we haven't seen it. We haven't had that
4 opportunity.

5 We certainly will be willing to work with
6 the Staff, as we all have before on issues that are this
7 complicated and permeate all of the rules, and so I would
8 encourage you to wait to make those kind of changes until
9 that process when you have input from all parties.

10 COMMISSIONER STOLL: So would that change
11 entail taking the essential local services language and
12 changing it to something consistent with, what was the
13 term, safe and adequate service?

14 MS. DALE: No. You're talking about voice
15 telephony service.

16 COMMISSIONER STOLL: Yes.

17 MS. DALE: And the fact of the matter is,
18 we cannot -- there are places where essential local
19 telecommunications service, that phrase is used because
20 it's in the statute. The statute uses the phrase
21 essential local telecommunications services. And so in
22 order to get the FCC's new definition where they've gone
23 to because -- because of the breadth of what they're
24 dealing with, they can't use this kind of a definition
25 anymore. So they have the voice telephony service, which

1 we're obligated to use as pertains to federal funding and
2 federal review.

3 COMMISSIONER STOLL: And that's why Office
4 of the Public Counsel suggested the for purposes of
5 federal universal support?

6 MS. BAKER: Right.

7 MS. DALE: Right.

8 MS. BAKER: And we would be fine with our
9 suggestion. We would be fine with Staff just pulling out
10 any change to that particular definition at this time.

11 COMMISSIONER STOLL: Okay. Thank you.

12 JUDGE WOODRUFF: Okay. We've heard from
13 Public Counsel and from Staff, is there anyone else in the
14 room who wishes to make a comment? I don't see anyone
15 else. Ms. Dale, did you have anything else?

16 MS. DALE: No. I just wanted to make sure
17 there were no further questions for Staff.

18 JUDGE WOODRUFF: Ms. Baker, anything else
19 you want to add?

20 MS. BAKER: No. I think we are fine with
21 the rest of the proposal. It's really just that one
22 definition.

23 JUDGE WOODRUFF: And are you okay with the
24 other changes that AT&T had proposed?

25 MS. BAKER: Yes, I believe we're fine with

1 those as well.

2 JUDGE WOODRUFF: Anything else anyone wants
3 to bring up, then?

4 (No response.)

5 JUDGE WOODRUFF: All right. We are
6 adjourned. Thank you.

7 (WHEREUPON, the hearing was adjourned at
8 10:51 a.m.)

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1 C E R T I F I C A T E

2 STATE OF MISSOURI)

3) ss.

4 COUNTY OF COLE)

5 I, Kellene K. Feddersen, Certified
6 Shorthand Reporter with the firm of Midwest Litigation
7 Services, do hereby certify that I was personally present
8 at the proceedings had in the above-entitled cause at the
9 time and place set forth in the caption sheet thereof;
10 that I then and there took down in Stenotype the
11 proceedings had; and that the foregoing is a full, true
12 and correct transcript of such Stenotype notes so made at
13 such time and place.

14 Given at my office in the City of
15 Jefferson, County of Cole, State of Missouri.

16

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Kellene K. Feddersen, RPR, CSR, CCR

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A	agree 21:1	apportioned	basically 5:11	13:11 29:5
ability 8:11 9:1	agrees 20:22	6:21	basis 14:4	Certified 32:5
20:9,14 22:20	21:7	appropriate	began 3:2 5:18	certify 32:7
24:15	ahead 3:12	21:9	Beginning 7:19	chance 28:24
able 19:11	4:12 5:7	area 8:14	behalf 3:15,22	change 5:12
23:23 26:21	10:11	areas 7:3 8:17	4:3	24:24 25:15
26:22	allow 12:13	8:18,18 10:4	believe 13:23	29:10 30:10
above-entitled	allowing 13:5	11:5,8	19:2,9 30:25	changed 14:5
32:8	allows 13:1,2	argument	benefits 7:2	22:4
access 8:1,5,9	alternative 8:5	14:11	best 20:23,24	changes 22:4
8:11,12,22	9:1 27:10	array 11:7	big 16:15 22:8	29:1,8 30:24
9:8,23 11:6	alternatives	asking 22:2	29:2	changing 29:12
19:4,5 23:21	18:11	assistance 8:10	bill 8:8 9:5	chapter 7:19
27:12	Amend 1:13	16:1 17:13	23:24	13:20,22,23
accomplished	amending	18:7,13 19:6	bit 22:8	13:24 15:19
25:9	26:20	Assistant 2:5	blanket 16:5	16:15,15 18:4
accounted 9:22	amendment	attention 18:3	Board 5:16,18	18:22
achieved 25:23	3:8 12:17	Attorney 2:2	11:14,25	chapters 19:14
add 6:3 12:11	15:10 26:23	attorneys 3:11	28:12,13	chapter-wide
12:25 18:18	amendments	3:25	books 9:10	13:21
21:11 30:19	1:13 19:15	AT&T 4:14 6:6	Box 2:6,13 3:16	characterizat...
added 12:24	Analysis 20:5	9:13 30:24	3:21	22:13
adding 12:21	anticipated	August 1:7	breadth 29:23	characterize
21:7 25:4	23:14,25	11:12	bring 15:13	15:23 22:12
addition 12:11	anymore 19:15	availability	31:3	CHIEF 1:19
21:12 26:11	29:2,25	11:21	bringing 15:7	Christina 2:5
additional 6:3	anyway 14:23	available 8:18	broad 28:20	3:20
23:19 24:3,6	16:17 28:15	8:24,25 10:4	broader 7:9	City 1:8 2:3,7
additions 26:9	appearance	11:8 16:2	23:7 25:8	2:15 3:16,21
address 4:23	3:11	a.m 3:3 31:8	brought 26:25	4:2 32:14
18:8	APPEARAN...		bystander 4:6	clarify 24:9
addressed 12:5	2:1	B	4:9	clarity 15:14
16:22	appearing 3:21	back 10:8	C	clause 21:8,11
addresses 20:8	appears 6:2,15	11:18	C 3:1 32:1,1	cleaner 26:7
adequate 14:6	7:18,19 10:13	Baker 2:5 3:20	caption 32:9	clear 6:19
14:12 18:24	10:13,14,14	3:20 4:18	carrier 8:22	17:17
29:13	10:15,19,21	5:10 21:20	9:4,6 17:6,8	closely 13:20
adjourned 31:6	11:11 12:8	25:5,20 28:16	carriers 8:13	closing 11:13
31:7	22:18	30:6,8,18,20	case 8:13 10:1	Cole 32:4,15
administering	application	30:25	14:18	Colleen 2:11
15:15	6:13 15:14	Barb 4:19	cause 32:8	3:14
Administrative	applied 17:3	Barbara 5:13	CCR 2:21	come 3:4 21:1
20:13	applies 15:18	based 17:12	32:20	comes 20:20
affect 28:1	apply 6:22,23	basic 7:22 8:1,9	certain 16:2	coming 4:19
age 9:11	7:7,9 26:20	8:9,24 10:2	17:7 25:3	comment 3:6
ago 7:4 10:1	applying 16:17	11:7,22 15:7	certainly 9:3	5:9 30:14
11:14	17:23	17:22,24 23:2		comments 3:12

4:13,14,17,19 4:25 5:7,11 6:16 7:16 20:11 25:21 Commission 1:2 2:12,18 3:7,16 10:1 10:22 11:2 16:11,18 17:23 18:3 19:9 20:5,10 20:22 21:1,6 25:23 27:10 27:11,17 28:22 Commissioner 1:22 13:8,10 27:21,23 28:6 29:10,16 30:3 30:11 Commission's 20:9,14 companies 4:4 8:7 14:5,7,9 14:23,24,25 17:11 18:9 19:1 23:17 24:5,12 company 8:2,4 9:1 16:24 17:4 20:13 competition 8:15 competitive 18:7,11 completed 13:19 complicated 14:16 16:25 23:5 29:7 complicates 17:1 comply 19:13 component 17:14 concern 15:24 17:9	concerned 4:23 7:13 concerns 5:21 13:6 22:15 connection 7:23 28:9 consensus 25:10 26:6 consider 11:9 19:7,25 22:21 23:13 27:17 consideration 13:12 consistency 15:14 18:15 25:22 consistent 14:14,19 17:18 29:12 contemplated 21:22 22:1 contemplating 19:18 20:7 context 15:18 16:6 continue 10:12 13:2 control 20:10 corner 25:11 correct 12:18 32:12 cost 7:21,22 16:10,12,16 16:19,22 22:19,22 24:1 28:10,11,14 28:17 costs 7:20 Counsel 2:5,6,8 2:11 3:19,22 4:18 5:7,15 30:4,13 County 32:4,15 couple 15:6 23:16 26:18 cover 19:5 covered 14:19	Craig 2:2 4:1 created 11:24 creates 16:25 creating 24:4 criteria 10:17 critical 11:4 CSR 1:14 2:21 3:8 17:20 32:20 Cully 16:20 18:18 current 11:17 12:17 currently 9:17 customer 8:2,3 8:5,10,23 9:3 9:15 customers 3:23 8:8,21 9:7,8 10:4 11:6,22 15:22 16:4,25 19:10 23:21 23:21,24 28:19	5:22 6:2,7,13 7:9,14,24 10:6 11:3 12:13,18 14:19 15:8,12 15:18,19 16:4 16:8 17:15 19:3,12 20:24 23:2,3,4,13 25:14,24 26:15 27:4,24 28:1,4,18,21 29:22,24 30:10,22 definitional 24:24 definitions 5:24,25 7:6 10:23 16:23 16:23 18:22 23:1,2 deletion 12:22 deletions 26:9 describe 5:20 13:6 describes 10:21 description 22:14 designated 24:11 detailed 11:4 determine 6:21 7:15 22:22 24:11 determined 9:25,25 10:23 determines 27:11 determining 24:13 28:21 detrimental 12:4 developed 23:6 developing 11:15 Dietrich 13:16 20:3,4	difference 14:20 20:1,20 21:21 different 9:4 10:15 16:23 17:2 19:22 22:25 23:1,9 25:2 difficult 29:1 direction 18:18 Director 20:4 directory 8:10 9:10,15,16 15:25 17:13 18:7,12 19:6 disabled 8:8 15:22 16:4 22:16 23:25 disagree 6:22 9:20 disclosure 18:21 19:16 discount 8:7,8 23:24 discussion 5:5 24:8 distance 9:2,7 distinct 7:1 distributing 12:14 doing 21:9 28:10
D				
D 3:1				
Dale 2:11 3:14 3:14 4:16,21 13:15 18:20 19:21 20:16 21:10 24:23 25:3,10,15,19 26:7,13,17 27:3,8,11,16 28:3,7 29:14 29:17 30:7,15 30:16 deal 29:2 dealing 29:24 decide 21:4 22:3 decides 28:13 decision 21:3 declared 18:6 defined 21:17 definition 5:11				
E				
E 3:1,1 32:1,1				
earlier 25:9				
East 2:3 4:2				
Economic 20:4				
element 5:21 9:16				
elements 9:23 10:3 12:5				
ELEVENTH 2:23				
eligibility 10:17 24:12 28:19				

eligible 17:6	27:18,24 28:2	25:24 29:22	15:21 16:9	3:6 5:9 31:7
eliminate 6:7	28:4 29:11,18	features 17:21	20:11 21:18	heels 13:21
6:11 10:6	29:21	18:2	22:19,22	HELD 5:5
12:2	essentially 14:6	fed 12:15	23:25 24:1	help 26:2,3
eliminating	16:16	Feddersen 2:21	28:14	high 2:3 4:2
5:22,25 7:14	established 7:4	32:5,20	funding 7:10	16:10,11,16
12:7	11:18	federal 5:16	7:14 15:20,22	16:19,22
emergency	establishing	6:4,19,23,24	16:7,11,19,22	22:19,22 24:1
25:1	11:24	7:12 9:19,21	17:5 20:9,15	28:10,11,14
encourage 11:8	event 16:18	11:14,20	20:16,25	28:17
12:10 29:8	22:21 28:13	12:12,13,14	24:15 28:19	higher 24:7,19
enforce 19:20	everybody 16:5	12:25 13:1	30:1	hold 21:24
enforceable	exactly 26:13	14:14,22	funds 19:13	Honor 4:7
19:14	26:19	20:11 21:15	20:18	hook 19:12
enforcement	example 8:14	21:17 22:5	further 30:17	
14:7	9:14,22	24:11,12,15	future 28:25	
Engineering	exist 9:10	25:22 26:1		I
20:5	existence 8:20	30:1,2,5	G	impact 12:4
England 4:5,6	existing 7:17	federally 14:20	G 3:1	implement
ensure 7:2 10:3	7:24	feds 21:5	give 6:15 10:11	16:18
11:6,21,25	expanded	fed's 6:20	23:23	important 8:21
ensures 8:23	16:11	feel 19:23	given 22:24	10:5 15:17
9:15 23:21	expect 18:1	22:23 27:25	32:14	19:5
entail 29:11	26:17	File 1:13 3:7	gives 8:5	incentive 18:25
entered 4:12	experience	filed 25:21	giving 11:4	20:19,25 24:6
entire 6:7	5:19	finally 24:8	22:17	include 21:16
entirely 12:3	extent 16:2,3	find 9:12	go 3:12 4:12,21	21:18
27:20	extra 12:21	fine 29:2 30:8,9	5:3,7 10:11	included 7:25
entirety 13:22	23:20	30:20,25	19:24 22:1	19:25 21:13
23:8	eyes 18:11	finished 26:18	goes 21:23	includes 7:22
entries 3:10		firm 32:6	going 15:1	13:22 19:3
equal 8:12,22	F	first 13:18	17:24 19:11	20:13
9:23	F 32:1	five 4:4	24:1 28:10,25	including 12:8
Eschen 13:17	facilities 17:8	focus 18:3	good 3:5 8:19	incorporate
15:3,4	17:12 24:2	focused 5:11	greater 18:15	26:4
essential 5:12	facility 17:11	folks 9:20	greatly 7:3	incorporates
5:23 6:2,7,11	fact 17:10	following 13:20	Group 2:4 4:4	25:24
7:5,9,18,21	29:17	fool 26:22	guess 16:2	incremental
7:24 9:17	fair 15:23	foregoing	21:20 27:23	24:19
10:24 11:3,10	22:13	32:11	guys 21:3	incumbent
12:1,7 15:8	fairly 11:4	forms 14:15		8:16,20,25
17:16 19:7,10	familiar 11:17	forth 32:9	H	9:6
19:25 20:2,21	far 16:10	forward 13:12	happening	Independent
20:23 21:16	FCC 11:23	frequently 11:1	14:1	2:4 4:3
21:23 22:4	12:15 17:9,18	full 18:21 32:11	heard 24:22	information
23:3,13,18,22	20:12	fund 1:15 3:9	30:12	9:12
24:25 27:13	FCC's 18:15	10:16 11:25	hearing 1:6 3:2	inherent 28:17
				initial 11:15

input 29:9	24:23 25:6,13	18:11	looks 15:24	14:16 15:21
instance 18:25	25:17 26:5,10	let's 3:4,13 4:12	lot 8:18 16:13	16:9,10,11
integral 10:6	26:15,24 27:6	8:14 22:3	17:4,10 20:19	17:20 18:1,5
intended 13:2,3	27:9,15,21	28:22	21:12,12	18:22 21:18
intends 12:15	30:12,18,23	level 9:19,21	LOUIS 2:24	22:5 23:20
12:15	31:2,5	24:7,13,16,19	low-income 8:7	24:17 25:23
interest 18:21	jurisdiction	Lifeline 15:15	15:22 22:16	32:2,15
interested 4:6,9	6:23 11:20,21	16:3,24 17:10	23:25 28:19	Missouri's
17:23		18:16		15:21 17:1
interexchange	K	light 19:15 28:9	M	MO 2:3,7,15,24
8:12,22 17:22	K 2:21 32:5,20	limitations	M 1:21 2:11	money 6:24
17:25	keep 6:1 14:16	19:4	3:14	12:13,14 13:1
Internet 9:12	15:17 20:24	limited 22:15	Madison 2:7,14	13:3 24:9,10
interrelation...	27:18	23:10	maintain 12:13	24:11
10:10	Kellene 2:21	limiting 7:16	17:15	monkey 27:14
introductory	32:5,20	links 6:8	maintaining	MoPSC 15:5
21:11	key 11:18	list 6:15 10:12	15:8 16:23	morning 3:5
investigations	KILPATRICK	22:17 23:18	marks 12:23	MORRIS 1:18
20:17	4:9	listed 9:16	mat 19:24	move 13:12
isolated 6:13	kind 26:25 29:8	listing 9:10	matter 1:12	moving 9:11
issue 13:4,11	29:24	listings 27:12	29:17	13:24
15:7 16:21	kinds 19:4,6,21	Litigation 2:22	mean 28:17	
18:9 21:25	know 4:13 9:3	32:6	measure 23:20	N
22:8 24:17	9:10,13 18:18	little 22:8	meet 17:6	N 3:1
25:7	25:3 26:19	local 5:12,23	Meisenheimer	name 5:13 15:3
issues 29:6		6:2,8,11 7:5	4:19,22 5:1,6	Natelle 13:16
item 6:3 8:9 9:9	L	7:18,21,25	5:13,14 6:18	15:2 18:18
	L 1:18	8:1,10,16,20	7:11,13 12:19	20:3
J	landline 8:24	8:23 9:5,17	12:22 21:7	necessarily 9:6
Jefferson 1:8	14:9	10:24 11:3,10	22:10 28:24	18:8 19:7
2:3,7,15 3:16	language 12:24	12:1,7 15:8	mentioned	23:17
3:21 4:2	12:24 20:7,13	17:22,24	16:20 24:18	necessary
32:15	21:8,13 25:25	21:16 23:2,3	mentions 28:18	19:10 21:4
job 6:20	26:3 29:11	23:14,18	Midwest 2:22	22:22 23:9
John 13:16	largely 18:23	24:25 27:24	32:6	need 5:8 14:2
15:2,3 22:11	late 13:6	28:2,4 29:11	mind 15:17	14:13,18 17:5
Johnson 2:2,2	law 1:19 2:2	29:18,21	27:18	17:6 18:9
4:1,1,1	18:5,22	locally 9:13	minimum	27:14 28:14
Joint 5:16	leave 22:2	long 7:4 9:2,7	17:21,23 18:2	needs 16:24
11:14	25:11,13 26:8	10:1 11:13	23:9	network 7:23
Judge 1:19 3:4	26:13 27:13	25:11	Missouri 1:1,8	new 19:22
3:18,24 4:5,8	28:22	longer 9:14,14	1:14 2:4,12	29:22
4:11,24 5:3,6	leaving 21:8	16:1	2:17 3:9,15	NORTH 2:23
6:17 7:8,12	left 14:6 18:23	look 10:9 11:5	3:16,21 4:2,3	note 10:20
12:16,20 13:8	legal 18:21	22:24 23:10	4:14 5:14,17	notes 32:12
13:13 19:17	19:16 24:4	26:3	7:1,3,6 8:17	number 22:22
20:6 21:6	legislature's	looking 12:16	9:24 11:11	numbers 9:12

25:16 numerous 10:13	page 9:9 pages 27:12 pancaking 26:19 paragraph 26:21 part 10:6,14 16:15 24:25 particular 15:18,20 16:4 17:2 18:4 22:7 30:10 parties 3:12,25 4:12 29:9 parts 7:25 10:15 pay 9:4 payment 23:19 23:23 24:2,6 24:19 pending 20:16 26:23 people 9:12 percent 25:4 permeate 29:7 personally 32:7 perspective 24:17 pertaining 14:4 pertains 15:20 30:1 phone 9:10 phrase 12:9,11 12:25 22:23 29:19,20 pick 9:6 place 13:25 16:18 20:23 23:11 32:9,13 places 7:18 18:22 22:17 27:25 28:2 29:18 please 3:5 point 17:19 18:5 21:21 22:17,24	25:20 29:1 portions 21:24 position 22:12 22:14 27:1,1 27:3 Post 3:16 potentially 24:1 practical 25:6 prefer 12:6 27:2,4 prepared 6:14 prescribes 17:21 present 32:7 Presiding 1:18 primarily 5:20 probably 9:23 11:17 14:9 procedure 10:22 22:1,3 22:6,8 28:20 28:23 proceedings 1:5 32:8,11 process 7:4,15 10:8,25 11:5 12:14 16:20 21:23 29:9 program 15:16 17:10 18:16 proposal 15:25 27:7,8 30:21 propose 28:25 proposed 1:12 3:6,7,8 5:12 6:9 12:17 15:10 18:17 20:8 21:5 26:22 30:24 provide 8:2,7 9:2,15 14:5 14:12 16:24 18:9 23:18 24:2,5,6 provided 8:4 16:3,10	provider 8:5,11 8:20,25 providers 8:16 provides 15:22 17:8 providing 14:9 14:10 16:5 17:12,24 23:20 24:14 provision 7:2 11:25 22:16 provisions 26:19 PSC's 17:20 public 1:2,6 2:5 2:6,8,9,12,17 3:2,5,12,15 3:18,22 4:18 5:7,9,15 30:4 30:13 pulling 30:9 punt 25:7 purpose 23:6 purposes 6:4 12:11,25 15:15 30:4 put 16:17 25:24 26:25 P.O 2:6,13 3:21	19:23,24 20:20,21,22 21:4 24:10 27:16 28:21 30:21 realm 22:5 reason 6:10 receive 9:17 17:5,5 24:12 24:15 recognize 6:19 22:19 23:5 recognized 11:23,24 recommenda... 25:25 recommenda... 20:11,15 recommended 12:9 record 5:4 redundant 21:13 reference 15:11 22:23 referenced 10:7 11:10 27:25 references 16:13 referring 24:10 reflects 13:25 reformed 17:9 reforms 18:15 regarding 3:6,8 27:23 regulated 8:16 regulation 25:8 REGULAT... 1:19 relate 10:16 related 7:20 22:18 relates 5:22 relevant 8:13 remain 25:17 remember 14:3
O O 3:1 obligated 23:17 30:1 obligation 24:5 obtained 17:11 obviously 20:10 occur 12:14 odd 13:23 offer 4:13,25 14:23,24 19:1 office 2:6,8 3:16,22 5:14 30:3 32:14 OFF-THE-R... 5:5 okay 4:5,8 6:17 26:5,7 27:6 27:15,21 30:11,12,23 ones 19:5 OPC 15:7 16:14 20:21 OPC's 15:24 open 8:15 operator 8:1,3 16:1 17:13 18:6,12 27:12 opinion 18:2 20:1,21 21:21 opportunity 13:4 29:4 order 3:4 29:22 orders 11:23 originally 10:22 12:6 23:6,25 ought 18:3 overlap 27:19	P P 3:1		Q question 20:6 24:24 questions 13:9 27:22 30:17 quite 4:20 17:16	
			R R 3:1 32:1 rate 8:16 reach 9:1,13 14:23,24 reached 26:5 real 19:12 really 8:20 17:3 17:17,23	

PUBLIC HEARING 8/2/2012

remote 8:19	reviewing 23:7	23:12 27:9	16:24 17:13	ST 2:24
removed 12:18	revised 11:11	28:4	17:16,25 18:1	staff 2:17 3:13
removing 28:1	23:15	says 6:3 8:3,10	18:7,7,8,10	3:15 4:17
28:3,8	revising 23:13	12:11	18:12,13 19:1	5:16,17 11:15
replace 26:4	revisions 5:22	scale 23:7	19:3,8 21:17	11:16 13:13
REPORTED	19:18,19	section 6:3,9,11	22:4 23:14,18	14:4 19:17
2:20	rewrite 13:19	6:14 10:19,21	24:14,25	26:6,25 27:25
Reporter 32:6	13:21 26:18	11:3,9,12	25:12,14	28:25 29:6
representing	rewriting 16:21	12:3 18:6	27:12,13,24	30:9,13,17
3:11,25	right 3:24 4:11	21:8 23:10,15	28:2,5 29:11	Staff's 25:7,21
require 8:2	4:24 5:3 6:18	26:20,21	29:21 32:7	27:1,3 28:10
14:4	7:17 12:5	sections 9:22	set 10:16 22:20	standard 9:9
required 9:14	19:17 20:19	10:7,13	32:9	18:24
9:14	22:2 24:14	see 18:14 20:18	sheet 32:9	standards
requirement	26:17 28:6	30:14	Shorthand	17:24
16:5 17:12	30:6,7 31:5	seen 14:14 29:3	32:6	start 5:10
19:20	room 30:14	Senior 2:11	signals 8:19	state 1:1 7:1,6
requirements	RPR 2:21	served 5:15,17	significant 16:9	7:10,14,15
11:17 14:14	32:20	11:16	17:9 18:11	8:15 10:4,5
17:7,7 19:14	rule 5:24 6:1,9	service 1:2,15	significantly	11:5,6,21,24
requiring	13:23 14:3	2:12,18 3:9	14:5	13:2,3 14:20
19:21	15:10 16:13	3:15 5:16,17	similar 11:7	14:21,21
resent 18:15	17:20,21 18:3	6:4,20,24 7:5	simply 6:8 8:3	18:10 20:9
respect 6:23	18:4 19:19	7:10 8:1,3,11	16:17 22:15	23:19 24:16
7:14 15:24	rulemaking 3:6	8:18,24 10:3	28:4	32:2,15
22:25 23:24	11:9 13:21	11:14,25	single 6:14 27:4	statement
respond 9:20	18:17 20:8	12:10,12 13:1	sir 4:10	28:16
13:14 15:6	21:25 22:7	14:6,9,19,21	situation 16:25	statewide 14:3
22:10 23:16	25:1	15:9,11,20,21	small 17:14	status 17:5,11
responding	rules 6:14 7:4	16:6,9 17:8	18:17	statute 10:7
13:15,16	7:17 10:7	17:14,21,22	solely 15:19,21	11:10,11,24
response 5:2	12:5 14:4	20:13 21:2,14	16:6	28:23 29:20
20:6 31:4	15:14 16:16	21:18,18,19	somewhat	29:20
responses	16:21 17:20	23:2,3,4,20	18:15	Stenotype
24:21	22:20,23 23:5	24:7,18,20	sort 19:18	32:10,12
responsibility	23:8,9 25:21	26:1,12,16	specific 9:24	step 10:8 18:17
7:1 11:19,20	25:23 28:11	27:5 28:5,12	14:16	STEPHEN
rest 6:11 19:18	28:14,23 29:7	28:13 29:13	specifically	1:21
30:21	run 10:17	29:15,19,25	5:21 10:20	stick 21:2
result 14:7	rural 7:3 8:17	services 2:22	11:9 20:8	Stoll 1:21 13:8
return 8:16		5:23 6:2,5,8	22:11 28:18	13:10 27:21
revamped	S	6:12,21 7:2,6	specifics 15:2	27:23 28:6
28:14	S 3:1	7:9,15,18,21	spend 10:9	29:10,16 30:3
review 7:5	safe 14:6,11	7:25 9:2,7,18	13:4	30:11
10:23 11:2	18:24 29:13	10:24 11:3,7	Sporleder 2:2	Street 2:3,7,14
25:8 30:2	Safety 20:4	11:11,22,22	4:2	2:23 4:2
reviewed 23:14	saying 7:8 9:7	12:1,8 16:1,6	ss 32:3	subscribe 9:4

subscriber 8:24	Tariff 20:4	11:4 12:2	18:23	23:19 26:25
subsection 7:19	technology	13:2 14:2,18	unit 15:4	30:19
12:17	9:11	15:6,7,17,23	universal 1:15	wanted 10:3
Substantively	telecommuni...	16:21,22	3:9 5:16,17	16:18 19:24
14:2	5:12,23 6:12	18:14,16 19:5	6:4,20,24 7:2	22:10 23:16
substitute 6:8	12:8 15:4,9	20:1 21:3,10	7:10 11:14,22	24:9 25:20
suggest 6:1	17:6,16,25	22:7,11,13	11:25 12:12	30:16
suggested	18:1 19:8	24:21 26:3,7	12:25 15:20	wants 4:25
12:24 30:4	21:16 24:25	26:20 30:20	15:21 16:6,9	17:4 18:18
suggesting 9:5	27:13 29:19	thorough 22:24	20:12 21:18	31:2
23:10	29:21	three 10:15	24:17 26:1	way 13:3 17:18
suggestion 6:6	Telephone 2:4	11:1,2	28:12,13 30:5	19:11 21:9,19
21:7 30:9	4:3	time 5:15 7:4	unreasonable	26:8
Suite 2:3,7	telephony 6:5	10:1,9 11:13	14:8	ways 17:2
support 6:4,20	12:10 15:11	12:3 13:4	unworkable	weeks 26:18
6:22 12:12	19:3,25 21:2	22:9 25:2	14:17	Welcome 3:5
13:1 14:22,22	21:14,17 23:4	28:9 30:10	urban 11:8	we'll 3:10,12
16:10,12,16	25:12,14	32:9,13	urge 28:21	5:3 26:21,22
16:19,22	26:11,16 27:4	today 3:10 4:3	use 9:12 13:1,3	27:14
21:15 22:16	28:5 29:15,25	4:13,15 5:20	22:3 28:22	we're 4:25 9:11
24:18 28:10	term 7:18 15:9	9:17 22:19	29:24 30:1	13:23 14:6
28:11 30:5	16:14 22:18	toll 19:3	uses 29:20	16:20 18:23
supported 7:16	29:13	tool 14:7	USF 13:24	20:7 22:2
7:21 8:6	terms 8:6 23:9	transcript 1:5	16:11 17:5	23:6,12,12
supports 26:1	23:23	32:12	20:9 21:15	26:20 28:3,4
supposed 8:6	Thank 3:14,18	tried 26:1		30:1,25
sure 9:20 13:11	3:20 13:5	true 16:3 32:11	V	we've 14:14
17:2,16 19:14	30:11 31:6	try 15:13 19:19	Van 13:17 15:3	30:12
30:16	themes 11:19	23:8	15:4	white 9:9 27:12
swear 5:8	theory 8:6	trying 6:22	view 23:22 24:4	whittle 23:8
synonymous	thereof 32:9	22:17	24:5,18 28:25	willing 23:7
6:5 12:9	thing 10:18	turn 15:1	viewpoint 25:7	26:2 29:5
26:11 28:5	13:18 14:13	two 16:23	voice 6:5 12:9	wireless 8:18
system 14:17	20:12,24 28:8	21:21	15:11 19:2,25	14:22
	things 7:22	TX-2012-0392	21:2,13,16	wireline 14:21
T	9:22 14:10,15	1:13 3:7	23:4 25:11,14	14:21,25
T 32:1,1	14:15,23,25	type 10:17	26:11,15 27:4	wish 4:13 13:13
tab 9:7	15:6,25 17:13	20:12	28:5 29:14,25	wishes 30:14
take 3:12 10:8	18:6,12 19:4		Volume 1:9	withhold 19:1
10:20 12:23	19:6,22,24	U		19:13 20:9,15
13:11 26:10	20:17,19	understand	W	20:16 24:14
talk 6:25	22:11 23:17	4:23 13:10	wait 5:4 29:8	withholding
talked 10:12	23:18,22 24:3	understanding	waiting 5:1	20:18 24:9,10
19:19 25:8	27:17,18	24:10 28:2	want 4:22 6:19	24:17
talking 8:14	think 5:10 6:6	undertaken	13:18 18:20	witnesses 4:22
16:14 22:12	6:10 9:23	25:1	21:11,14,15	Woodruff 1:18
29:14	10:5,12 11:1	unenforceable	21:15,20,24	3:4,18,24 4:5

PUBLIC HEARING 8/2/2012

4:8,11,24 5:6	2012 1:7	650 2:7		
6:17 7:8,12	2230 2:6 3:21	65102 2:3,7,15		
12:16,20 13:8	240-31.010	3:17,21		
13:13 19:17	1:14 3:8			
20:7 21:6	240-32.100	7		
24:23 25:6,13	17:20	711 2:23		
25:17 26:5,10	3	9		
26:15,24 27:6	3 7:19 13:23	9 7:20		
27:9,15,21	304 2:3 4:2	911 19:4		
30:12,18,23	31 13:22,24			
31:2	15:19 16:15			
WOODRUF...	18:4 28:17,20			
5:3 31:5	31.010 7:19			
work 15:4 23:7	10:13			
29:5	31.020 10:14			
worked 5:14	31.040 10:14			
10:2 11:15	31.050 10:15			
wouldn't 14:11	28:18			
21:14 23:13	31.080 10:15			
writeups 11:23	31.100 10:21			
written 4:14,16	21:22 23:15			
14:3	314 2:25			
X	32 18:22			
X 21:18,19	360 2:13 3:16			
Y	386 19:16			
yeah 15:3 25:4	392 19:15			
year 11:1	392.248 11:12			
years 11:2	392.361.8 18:6			
yesterday	4			
25:22	4 1:14 3:8 7:20			
1	17:20			
1 1:9 13:6	5			
1A 10:14	573)632-1900			
10 3:3	2:4			
10:51 31:8	573)751-3234			
11 7:20	2:16			
135 25:4	573)751-4857			
17 6:9 25:13	2:8			
26:13 27:19	6			
1996 5:15	6 7:20 12:17			
2	21:8 25:17			
2 1:7 13:6	26:8 27:19			
200 2:3,7,14	63101 2:24			
2011 11:12	644-2191 2:25			