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SOUTHWESTERN BELL TELEPHONE, L.P.,
d/b/a AT&T MISSOURI

Missouri Public
Service Commission

CASE NO. TO-2005-0466

REBUTTAL TESTIMONY

OF

JAMES E. STIDHAM, JR.

Dallas, Texas

May 9, 2006

NP Exhibit No. 11
Case No(s) TD-2006-0466
Date 5-31-06 Rptr PF

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

In the Matter of the Application of Northwest Missouri)
Cellular Limited Partnership for Designation as a)
Telecommunications Company Carrier Eligible for)
Federal Universal Service Support Pursuant to) Case No. TO-2005-0466
§254 of the Telecommunications Act of 1996)

AFFIDAVIT OF JAMES E. STIDHAM, JR.

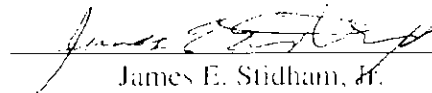
STATE OF TEXAS)

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COUNTY OF DALLAS)

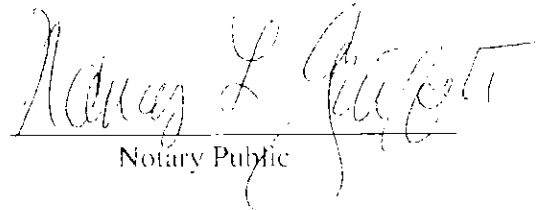
I, James E. Stidham, Jr., being duly sworn, depose and state:

1. My name is James E. Stidham, Jr. I am presently Associate Director - Regulatory Planning and Policy for AT&T Services, Inc.
2. Attached hereto and made a part hereof for all purposes is my Rebuttal testimony.
3. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct to the best of my knowledge and belief.


James E. Stidham, Jr.

Subscribed and sworn to before me this 5th day of May, 2006.




Notary Public

My Commission Expires: 1-26-09

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INTRODUCTION

1 **Q. WHAT IS YOUR NAME, TITLE AND BUSINESS ADDRESS?**

2 A. My name is James E. Stidham, Jr. My title is Associate Director-Corporate Regulatory
3 Planning and Policy. My business address is 208 S. Akard Street, Room 3041, Dallas,
4 Texas 75202.

5

6 **Q. HAVE YOU PREPARED AN EXHIBIT THAT PROVIDES INFORMATION**
7 **REGARDING YOUR EMPLOYMENT, EDUCATIONAL BACKGROUND AND**
8 **PREVIOUS APPEARANCES BEFORE STATE PUBLIC UTILITY**
9 **COMMISSIONS?**

10 A. Yes. That information is included in Schedule JES-1, which is attached to my Rebuttal
11 Testimony.

12

13 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

14 A. The purpose of my Rebuttal Testimony is to respond to the Direct Testimonies of
15 Kathryn G. Zentgraf, Jonathan D. Reeves and Roger Bundridge filed on February 13,
16 2006, and the Supplemental Direct Testimonies of Jonathan D. Reeves and Roger
17 Bundridge filed on April 17, 2006. These testimonies were submitted to support
18 Northwest Missouri Cellular Limited Partnership's ("NWMC's") request that it be
19 designated as an Eligible Telecommunications Carrier ("ETC") for purposes of receiving
20 federal Universal Service Fund ("FUSF") support (hereinafter, "NWMC's Application").
21 I recommend that the Commission consider the information and analysis I provide in this
22 Rebuttal Testimony in assessing whether to grant NWMC's Application.

1 **SUMMARY**

2 **Q. PLEASE IDENTIFY THE MAIN POINTS CONVEYED BY YOUR REBUTTAL**
3 **TESTIMONY.**

4 A. The main points conveyed by my Rebuttal Testimony are that:

- 5 • The Commission should use its new ETC rules (to appear at 4 CSR 240-3.570
6 (2)(A)(5)) to evaluate NWMC's application. While these rules are not yet
7 effective,¹ they borrow extensively from the FCC's own ETC rules which AT&T
8 Missouri and others have consistently argued should apply to all ETC cases
9 pending before this Commission. Moreover, the Commission has previously
10 concluded (in the context of "build out plans" required of ETC applicants) that the
11 rules serve as a "good guide" for the evidence that the Commission currently
12 requires of an ETC applicant.
13
- 14 • NWMC has not met its burden of proof to show that granting its Application
15 would be consistent with the public interest. Both Section 214(e)(2) of the
16 Telecommunications Act of 1996 ("the Act") and the Commission's new Rule
17 3.570 (2)(A)(5) (4 CSR 240-3.570 (2)(A)(5)) require that the granting of an ETC
18 application be "consistent with the public interest, convenience and necessity."
19 NWMC's position, prior to having filed its Supplemental Direct Testimony,
20 apparently was that it is not required to show that its application is in the public
21 interest in non-rural service areas, and as such NWMC neglects to provide
22 evidence that its application is in the public interest in the AT&T Missouri wire
23 center area of Stanberry (the only wire center area for which NWMC requests
24 ETC status²). The Supplemental Direct Testimony of Mr. Bundridge provides
25 only a brief discussion about how the public interest might be served by granting
26 NWMC's ETC application, and that discussion is insufficient to meet NWMC's
27 burden of proof.
28
- 29 • Granting applications like that of NWMC, when considered collectively, has a
30 material impact on the FUSF and negatively impacts Missouri consumers by
31 increasing FUSF contributions.

¹ On March 7, 2006, the Commission authorized the filing of its Final Order of Rulemaking with the Secretary of State. The rules become effective approximately thirty after they are published in the Code of State Regulations (which publication follows publication in the Missouri Register). Section 536.021.8, RSMo 2005 (Supp.).

² NWMC's Application, para. 8 & Appendix D, p. 3.

1 **THE COMMISSION'S NEW ETC RULES**

2 **Q. SHOULD THE COMMISSION APPLY ITS NEW ETC RULES (TO BE**
3 **PUBLISHED AT 4 CSR 3.570) TO THIS CASE?**

4 A. Yes. As the Commission has observed in the context of the ETC application of USCOC
5 of Greater Missouri, LLC (“U.S. Cellular”), the Commission’s newly adopted ETC rules
6 have not been published and do not yet have the force of law.³ However, these rules
7 borrow extensively from rules which the Federal Communications Commission (“FCC”)
8 adopted in March, 2005 for purposes of ETC applications submitted to that agency⁴ and
9 no one in the Missouri telecommunications industry has seriously challenged the
10 Commission’s reliance on the FCC’s rules pending the effective date of the
11 Commission’s own newly adopted rules.

12
13 Moreover, in the above-referenced ETC case involving U.S. Cellular, the Commission
14 determined the new rules’ “build out plan” requirements are “a good guide for the
15 information that U.S. Cellular will be required to submit” before the Commission will
16 further consider U.S. Cellular’s application.⁵ The same can be said of the entirety of the
17 rules’ requirements. Thus, the build out plan portion of the new rules - as well as the
18 remainder of the Commission’s newly adopted ETC rules - should be applied in this case.

³ Application of USCOC of Greater Missouri, LLC for Designation as an Eligible Telecommunications Carrier Pursuant to the Telecommunications Act of 1996, Case No. TO-2005-0384, Order Directing Applicant to File Additional Information About Intended Use of High-Cost Support (March 21, 2006) (“USCOC” Order), p. 2.

⁴ In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, 20 FCC Rcd 6371 (2005); 47 C.F.R. §§ 54.202, 54.209.

⁵ USCOC Order, p. 2

1 Finally, this course would also be most efficient. Both Supplemental Direct Testimonies
2 submitted by NWMC are directed squarely to the new rules' requirements,⁶ so with the
3 filing of all remaining testimonies due in this case, evidence on all aspects of the new
4 rules will already have been supplied by the parties.

5
6 **Q. WHAT ARE THE SPECIFIC REQUIREMENTS OF THE COMMISSION'S NEW**
7 **ETC RULES?**

8 A. The Commission's rules require that a carrier requesting ETC status must meet certain
9 eligibility requirements, in accordance with Rule 3.570(2)(A)(1-10). The applicant must
10 show:

- 11 • Its intended use of the high-cost support, including detailed descriptions of
12 any construction plans with start and end dates, populations affected by
13 construction plans, existing tower site locations for CMRS cell towers, and
14 estimated budget amounts.
- 15
16 • A two (2)-year plan demonstrating that high-cost universal service support
17 shall only be used for the provision, maintenance and upgrading of
18 facilities and services for which the support is intended in the Missouri
19 service area in which ETC designation was granted.
- 20
21 • The two (2)-year plan shall include a demonstration that universal service
22 support shall be used to improve coverage, service quality or capacity on a
23 wire center-by-wire center basis throughout the Missouri service area for
24 which the requesting carrier seeks ETC designation, including a detailed
25 map of coverage area before and after improvements and in the case of
26 CMRS providers, a map identifying existing tower site locations for
27 CMRS cell towers; the specific geographic areas where improvements will
28 be made; the projected start date and completion date for each
29 improvement; the estimated amount of investment for each project that is
30 funded by high-cost support; the estimated population that will be served
31 as a result of the improvements; if an applicant believes that service

⁶ Bundridge Supplemental Direct, p. 2 ("Specifically, my testimony will address the requirements identified in the [Commission's] pending Order of Rulemaking for rule 4 CSR 240-3.570 that was adopted after NWMC's application was submitted."); Reeves Supplemental Direct, p. 3 ("Additionally, my testimony will address the requirements identified in the [Commission's] pending Order of Rulemaking for rule 4 CSR 240-3.570 that was adopted after NWMC's application was submitted.").

1 improvements in a particular wire center are not needed, it must explain its
2 basis for this determination and demonstrate how funding will otherwise
3 be used to further the provision of supported services in that area; and a
4 statement as to how the proposed plans would not otherwise occur absent
5 the receipt of high-cost support and that such support will be used in
6 addition to any expenses the ETC would normally incur.
7

- 8 • A demonstration of the carrier's ability to remain functional in emergency
9 situations, including a demonstration that the carrier has a reasonable
10 amount of back-up power to ensure functionality without an external
11 power source, is able to reroute traffic around damaged facilities and is
12 capable of managing traffic spikes resulting from emergency situations.
13
- 14 • A demonstration that the commission's grant of the applicant's request for
15 ETC designation would be consistent with the public interest, convenience
16 and necessity.
17
- 18 • A commitment to advertise the availability of services and charges
19 therefore using media of general distribution throughout the ETC service
20 area.
21
- 22 • A commitment to provide Lifeline and Link Up discounts consistent with
23 47 CFR 54.401 and 47 CFR 54.411. Each request for ETC designation
24 shall include a commitment to publicize the availability of Lifeline service
25 in a manner reasonably designed to reach those likely to qualify for the
26 service consistent with 47 CFR 54.405.
27
- 28 • A statement that the carrier will satisfy consumer privacy protection
29 standards as provided in 47 CFR 64 Subpart U and service quality
30 standards as applicable.
31
- 32 • A statement that the requesting carrier acknowledges it shall provide equal
33 access pursuant to 47 CFR 240-32.100(3) and (4) if all other ETCs in that
34 service area relinquish their designations pursuant to section 214(e) of the
35 Telecommunications Act of 1996.
36
- 37 • A commitment to offer a local usage plan comparable to those offered by
38 the incumbent local exchange carrier in the areas for which the carrier
39 seeks designation. Such commitment shall include a commitment to
40 provide Lifeline and Link Up discounts and Missouri Universal Service
41 Fund (MoUSF) discounts pursuant to Chapter 4 CSR 240-31, if
42 applicable, at rates, terms and conditions comparable to the Lifeline and
43 Link Up offerings and MoUSF offerings of the incumbent local exchange
44 carrier providing service in the ETC service area.

1 **Q. DO THE COMMISSION'S ETC RULES CONVEY A FRAMEWORK FOR**
2 **APPLYING A PUBLIC INTEREST ANALYSIS?**

3 A. No. While the rules require a demonstration that the Commission's grant of ETC
4 designation would be consistent with the public interest, convenience and necessity, they
5 do not prescribe any specific factors that the Commission should consider when assessing
6 whether the ETC applicant has met its burden of proof. AT&T Missouri urges the
7 Commission to use a process similar to the one used by the FCC. As the FCC noted, its
8 ETC Designation Order "set[s] forth our public interest analysis for ETC designations,
9 which includes an examination of (1) the benefits of increased consumer choice, (2) the
10 impact of the designation on the universal service fund, and (3) the unique advantages
11 and disadvantages of the competitor's service offering."⁷ These considerations are
12 explained in detail in Part IV(B) of the FCC's ETC Designation Order. The FCC
13 "strongly encourages state commissions to consider the same factors in their public
14 interest reviews."⁸

15
16 **ANALYSIS OF NWMC'S APPLICATION AND SUPPORTING TESTIMONY**

17 **Q. IN YOUR OPINION, BASED ON NWMC'S APPLICATION AND DIRECT**
18 **TESTIMONIES, HAS NWMC SHOWN THAT IT IS ABLE TO REMAIN**
19 **FUNCTIONAL IN EMERGENCY SITUATIONS, AS THE COMMISSION'S**
20 **NEW RULES REQUIRE?**

21 A. No. NWMC's Application and Direct Testimonies provide only limited information
22 regarding NWMC's ability to remain functional in emergency situations. Although

⁷ ETC Designation Order, para. 18.

⁸ ETC Designation Order, para. 41.

1 NWMC generally addressed its back-up power capabilities (Bundridge Direct, pp. 20-21;
2 Bundridge Supplemental Direct, pp 5-6), I found no specific evidence in the Direct
3 Testimonies demonstrating that NWMC “is able to reroute traffic around damaged
4 facilities and is capable of managing traffic spikes resulting from emergency
5 situations[,]” as the Commission’s new Rule 3.570(2)(A)(4) requires.
6

7 With regard to traffic rerouting, the Direct Testimony of Mr. Bundridge (at p. 22) speaks
8 of a “redundant network design” that “allows the system to avoid most customer-
9 affecting service outages,” but no detail is provided which actually describes the design.
10 The Supplemental Direct Testimony of Mr. Bundridge (at p. 6) states that “[NWMC’s]
11 switching infrastructure is configured in a manner to allow traffic to automatically reroute
12 around damaged facilities should a particular link to the PSTN be interrupted.”
13 (Bundridge Supplemental Direct, p. 6). However, no more testimony is devoted to the
14 subject. Thus, no description of the switching configuration is provided, nor any
15 explanation as to how the configuration NWMC employs can be counted on to provide
16 reliable redundancy and rerouting in the event that facilities are damaged.
17

18 With regard to the management of traffic spikes, the Supplemental Direct Testimony of
19 Mr. Bundridge provides little information. For example, he states that “the normal
20 operation of the switch allows for significant overhead traffic above and beyond ‘normal’
21 use” and that “the nature of the CDMA technology allows the cell sites to operate under
22 heavier loads than designed at the trade-off of overall footprint and quality.” (Bundridge
23 Supplemental Direct, p. 6). Such statements do not provide the requisite detail that

1 would enable the Commission to find that NWMC can sufficiently handle the onset of
2 traffic spikes and various mass calling situations in a reliable manner.

3
4 **Q. APPENDIX K, INTRODUCED BY THE DIRECT TESTIMONY OF NWMC**
5 **WITNESS BUNDRIDGE, PURPORTS TO COMPARE LIFELINE RATES**
6 **AMONG VARIOUS ILECS AND NWMC. DOES NWMC'S EXHIBIT PROVIDE**
7 **A TRUE REPRESENTATION OF AT&T MISSOURI'S LIFELINE RATES?**

8 A. No. Appendix K compares NWMC's rates to AT&T Missouri's Flat Rate Group A rates
9 and Flat Rate Group B rates without regard to the Lifeline discounts provide by the FUSF
10 Low Income fund and the further support allowed due to the Missouri USF – both of
11 which must be applied to AT&T Missouri's rates in order to afford an accurate
12 comparison. Moreover, Appendix K compounds its error of comparing apples to oranges
13 by depicting the wrong Subscriber Line Charge ("SLC") which, in the case of AT&T
14 Missouri, is currently \$5.25, not \$6.50.⁹

15
16 When the applicable discounts are applied to AT&T Missouri's Lifeline Flat Rate Group
17 A customers (customers in the Stanberry exchange are Flat Rate Group A customers),
18 they pay \$0.15 before applicable 911/Relay Missouri charges, not \$13.65, as is
19 represented by NWMC's Appendix K.¹⁰

⁹ See, Southwestern Bell Telephone Company, L.P. Tariff No. 73, Access Service, Section 4.4(A), at 12th Revised Page 4-8.

¹⁰ In Appendix K, the \$13.65 is the total of \$7.15 plus the erroneous \$6.50.

1 **Q. NWMC'S TESTIMONY STATES THAT IT IS READY TO UNDERTAKE**
2 **CARRIER OF LAST RESORT OBLIGATIONS IF THE EXISTING LEC IN ITS**
3 **DESIGNATED ETC SERVICE AREA SEEKS TO RELINQUISH ITS ETC**
4 **STATUS. (BUNDRIDGE DIRECT, P. 17). PLEASE COMMENT ON THIS**
5 **STATEMENT.**

6 A. I cannot comment on whether NWMC is in fact ready to take on the Carrier of Last
7 Resort obligations under such a circumstance. Section 214(e)(1) of the Act states that
8 “[a] common carrier designated as an eligible telecommunications carrier under
9 paragraph (2), (3), or (6) shall be eligible to receive universal service support in
10 accordance with section 254 of this title and shall, throughout the service area for which
11 the designation is received . . . offer the services that are supported by Federal universal
12 service support mechanisms.” Section 214(e)(4) states that “[a] State commission . . .
13 shall permit an eligible telecommunications carrier to relinquish its designation as such a
14 carrier in any area served by more than one eligible telecommunications carrier.”

15
16 In its ETC Designation Order, the FCC encouraged state commissions to “harmonize” an
17 ETC applicant’s build-out commitments “with any existing policies regarding line
18 extensions and carrier of last resort obligations.”¹¹ Missouri’s policy on these subjects is
19 best reflected in Section 386.020(6) RSMo. 2000, which defines a “carrier of last resort”
20 as “any telecommunications company which is obligated to offer basic local

¹¹ ETC Designation Order, para. 21.

1 telecommunications service to all customers who request service in a geographic area
2 defined by the commission and cannot abandon this obligation without approval from the
3 commission.”

4
5 Section 214(e)(1) makes it very clear that an ETC must offer basic local service
6 throughout the service area for which designation is received and Section 214(e)(4)
7 requires Commission approval to relinquish service. Missouri’s policy likewise
8 emphasizes the offering of service to all requesting customers and that the carrier cannot
9 abandon this obligation without Commission approval. NWMC should unequivocally
10 state its commitment to undertake carrier of last resort obligations pursuant to federal law
11 and Missouri’s public policy.¹²

12
13 **Q. IN YOUR OPINION, BASED ON NWMC’S APPLICATION AND DIRECT**
14 **TESTIMONIES, HAS NWMC SHOWN THAT DESIGNATING IT AS AN ETC**
15 **WOULD BE IN THE PUBLIC INTEREST?**

16 A. No. Indeed, Ms Zentgraf appears to contend that no such showing is required of NWMC
17 insofar as its request for ETC status among AT&T Missouri’s wire center areas is
18 concerned. She states that this Commission “must designate more than one carrier as an
19 ETC in an area served by a non-rural telephone company if the requesting carrier meets
20 the requirements of Section 214(e)(1) of the Act.” (Zentgraf Direct, pp. 5-6) (emphasis

¹² Given the federal obligations imposed on ETCs and the FCC’s express encouragement to consider state carrier of last resort policies, the Commission is not precluded from reliance on Section 386.020(6) as an indicator of sound public policy on the basis that service provided pursuant to a radio license from the FCC is not regarded as a “telecommunications service” under Missouri law (Section 386.020(53)(i), RS Mo. 2000) or because the statutory definition of a “telecommunications company” turns on the provision of “telecommunications service.” Section 386.020(51), RS Mo. 2000.

1 added). Her statement is incorrect because, first, Section 214(e)(2) of the Act specifically
2 includes a public interest analysis. Second, consistent with the Act, Section
3 3.570(2)(A)(5) of the Commission's new ETC rules specifically states that "[e]ach
4 request for ETC designation shall include . . . [a] demonstration that the [C]ommission's
5 grant of the applicant's request for ETC designation would be consistent with the public
6 interest, convenience and necessity."

7
8 **Q. SETTING ASIDE MS. ZENTGRAF'S VIEWS REGARDING THE**
9 **APPLICABILITY OF THE PUBLIC INTEREST REQUIREMENT FOR AREAS**
10 **SERVED BY NON-RURAL CARRIERS, DOES NWMC PRESENT SUFFICIENT**
11 **EVIDENCE THAT GRANTING ITS APPLICATION WOULD BE IN THE**
12 **PUBLIC INTEREST?**

13 A. No. NWMC focuses primarily on the argument that granting it ETC status would
14 increase competition.¹³ But NWMC's emphasis on the importance of competition rests
15 on outdated FCC orders. Among these is a reference to a 1995 FCC Order predating the
16 passage of the Act, presumably standing for the proposition that "stimulating
17 competition, whenever possible, is a paramount FCC objective."¹⁴ Such references are
18 no longer helpful, nor even accurate. The FCC has since made clear that "the value of
19 increased competition, by itself, is unlikely to satisfy the public interest test."¹⁵

¹³ See, NWMC's Application, paras. 24-27.

¹⁴ See, NWMC's Application, para. 24 & n. 27.

¹⁵ See, e.g., ETC Designation Order, para. 44. (further citations omitted).

1 NWMC also asserts that wireless service would add public health and safety benefits that
2 would be in the public interest. NWMC notes that with a cell phone (whether or not
3 active), an individual can call 911 using NWMC's network. However, my understanding
4 (based on the testimony of other wireless ETC applicants) is that all wireless carriers
5 provide access to 911 if there is a signal from the wireless carrier's network and the
6 individual is using a compatible technology.¹⁶ Consequently, granting NWMC's
7 application might afford public health and safety benefits only if none of the other
8 holders of wireless licenses operating within NWMC's licensed territory provide a
9 usable signal. NWMC has not shown that this is the case, which is important given that
10 Ms. Zentgraf's testimony refers to two cellular licensees and six Personal
11 Communications Services ("PCS") licensees that may be operating within NWMC's
12 licensed territory. (Zentgraf Direct Testimony, p. 24).

13
14 Mr. Bundridge's Supplemental Direct Testimony (at p. 7) suggests that a farmer injured
15 while working in a field could summon help without the need to reach a wired telephone,
16 but, once again, there is no indication that wireless carriers other than NWMC do not
17 already offer service in the area. In addition, Mr. Bundridge discussion overlooks other
18 methods of summoning help, which could include walkie talkies, CB radios, other forms
19 of radio communication, even satellite phones.

¹⁶Significantly, wireless E911 service would not be limited to NWMC subscribers. NWMC's wireless E911 service is available to any compatible handset in NWMC's coverage area, whether or not the user is a NWMC customer, the customer of a competitor or not even a customer of any service provider. The NWMC network routes all 911 calls regardless of the status of the caller. This is even true for a customer whose wireless phone service has been disconnected.

1 Finally, Mr. Bundridge's Supplemental Direct Testimony (at p. 6) suggests that while
2 NWMC has better coverage than its competition, this coverage would benefit from
3 enhanced CDMA coverage. However, no detail is provided regarding the actual
4 coverage afforded by NWMC's competitors nor any detail that demonstrates exactly how
5 enhanced CDMA coverage would provide benefits to consumers or whether such benefits
6 are not already being provided to consumers by NWMC's competitors.

7
8 In short, NWMC has not shown that it would be the only provider of wireless service in
9 the area for which NWMC is requesting ETC status, or at a minimum, that it would be
10 the preferred provider in an area where another wireless provider (or providers) offers
11 service. Thus, the record affords the Commission no basis upon which to conclude that
12 granting NWMC's Application - thus allowing NWMC access to high-cost fund support -
13 would provide Missourians any meaningful public health and safety benefits.

14
15 **Q. MR. BUNDRIDGE ASSERTS THAT GRANTING NWMC ETC STATUS**
16 **WOULD BENEFIT RURAL FARMERS. (BUNDRIGE SUPPLEMENTAL**
17 **DIRECT, P. 7). DOES THIS POSITION SQUARE WITH HIS DISCUSSION OF**
18 **WHY SERVICE QUALITY REQUIREMENTS ARE UNNECESSARY?**

19 A. No. As I noted above, Mr. Bundridge's Supplement Direct Testimony suggests (at p. 7)
20 that without NWMC's service, a rural farmer would likely be without any wireless
21 service. But he also suggests that competition in the wireless services market makes it
22 unnecessary to condition ETC status upon compliance with quality of services standards:
23 "If one service provider offers inferior service, the customer often has the ability to

1 switch their service provider.” (Bundridge Supplemental Direct, p. 10). While I am not
2 advocating that service quality requirements be placed on NWMC as a condition of ETC
3 status, I am suggesting that the farmer either may already have, or will have in the near
4 future, multiple carriers from which to choose, and granting NWMC’s application would
5 distort the market place. Moreover, it seems inconsistent for NWMC to suggest, on the
6 one hand, that there are few if any wireless alternatives for farmers while also suggesting,
7 on the other hand, that the “competitive” wireless environment makes added regulation
8 unnecessary.

9
10 **Q. DOES NWMC OFFER ANY OTHER ARGUMENTS FOR WHY ITS REQUEST**
11 **SHOULD BE APPROVED?**

12 A. Yes. NWMC contends that its designation as an ETC would not have a substantial
13 impact on the overall size of the FUSF. (Zentgraf Direct, pp. 12-13, 16-17). Ms.
14 Zentgraf’s Direct Testimony (at p. 16) contends that the amount NWMC would receive is
15 small when compared both to the amount received by the ILEC and to the amount
16 received by Nextel when the FCC granted its ETC requests in several states almost two
17 years ago.

18
19 **Q. HAS THERE BEEN A MATERIAL IMPACT TO THE FUSF AS A RESULT OF**
20 **COMPETITIVE ETC’S GAINING HIGH COST SUPPORT?**

21 A. Yes. Ms. Zentgraf’s comparison of the support received by the ILEC is at best a red
22 herring. Ms. Zentgraf compares the projected USF high cost support that NWMC would
23 receive for the few, or maybe several, thousand lines it would serve in its proposed

1 service area (within approximately five counties) to the total FUSF high-cost support
2 received statewide by Missouri ILECs that collectively provide over 2.6 million working
3 loops. A comparison between NWMC's expected support for but one carrier serving
4 some customers in a handful of counties and the support for all carriers on a statewide
5 basis is not helpful.

6
7 The FCC's granting of Nextel requests is likewise of no help to NWMC because it
8 predated the ETC Designation Order calling for a "more rigorous ETC designation
9 process."¹⁷ Also worth mentioning is that Nextel's continued ETC status will be
10 reviewed by the FCC this coming October when all carriers previously granted ETC
11 status by the FCC will be reviewed using the FCC's ETC Designation Order.

12
13 Ms. Zentgraf points to the steady FUSF contribution factors from the third quarter of
14 2003 through fourth quarter of 2004 (in the range of about 8.9% to 9.5%) and the current
15 10.2% contribution factor as proof that support provided to competitive ETCs has not
16 impacted the FUSF. Ms. Zentgraf claims that for the period in which there was an
17 exception (i.e., 10.7% for the first quarter, 2005; 11.1% for the second quarter, 2005), the
18 contribution factor increase was attributable to escalating support costs for the Schools
19 and Libraries Program. (Zentgraf Direct, pp. 12-13). But Ms. Zentgraf's analysis is
20 faulty. First, she fails to note that the FCC used surplus funds from the Schools and
21 Libraries program to stabilize the contribution factor during the latter part of 2003

¹⁷ ETC Designation Order, para. 2.

1 through the fourth quarter of 2004. In other words, the contribution factor was
2 suppressed by the infusion of these surplus funds. When the use of the surplus funds
3 ended at the start of 2005, the contribution factor jumped to 10.7% for the first quarter of
4 2005, and it then jumped to 11.1% for the second quarter of 2005. The contribution
5 factor was 10.2% between the third quarter 2005 and the first quarter 2006 and is now
6 10.9%.

7
8 In any case, the contribution factor does not tell the full story, because it is the net result
9 of many dynamic elements involving the different components of the FUSF. To isolate
10 the effect of wireless ETCs on the FUSF, one must look at the estimates of demand for
11 the high-cost program from which wireless ETCs draw support. Based on the Universal
12 Service Administration Company's ("USAC's") demand projections, for the third quarter
13 of 2005, annualized wireless high cost support was about \$776 million. In less than a
14 year, (i.e., the annualized second quarter of 2006), wireless high cost support is expected
15 to increase by approximately \$200 million, to an estimated \$972 million. The \$972
16 million received by wireless ETCs represents over 23% of all high-cost support. To put
17 this into perspective, in the absence of payments to wireless ETCs, the current FUSF
18 contribution factor of 10.9% (and the consequent FUSF surcharge) would decrease by
19 about 13.7%, to about 9.4%. And, given the recent spate of wireless ETC applications
20 for high-cost support, one may well see an increase in this percentage and consequent
21 surcharge.

1 **Q. SINCE NWMC CONTRIBUTES TO THE FUSF, ISN'T IT ENTITLED TO**
2 **RECEIVE MONEY FROM THE FUND?**

3 A. Wireless carriers often make the argument that since they contribute to the FUSF they are
4 entitled to receive support from it. However, interexchange carriers ("IXCs") have been
5 and still are large contributors to the FUSF, yet IXCs have never received any high cost
6 support. Similarly, AT&T Missouri contributes to the FUSF but, as explained later, does
7 not receive what is traditionally considered FUSF high-cost support. The real issue is not
8 whether NWMC contributes to the FUSF, but whether its designation as an ETC is
9 consistent with the Commission's new ETC rules.
10

11 **Q. WILL MISSOURI MISS OUT ON THE BENEFITS OF INCREASED HIGH-**
12 **COST SUPPORT IF NWMC'S APPLICATION IS DENIED AND OTHER STATE**
13 **COMMISSIONS APPROVE COMPETITIVE ETC APPLICATIONS?**

14 A. Missourians who would purchase NWMC's service may benefit (assuming, however, that
15 there are no other wireless carriers serving their area that could make a better price/value
16 offer than NWMC). But the fact is that the FUSF will grow larger, and all Missouri
17 ratepayers will contribute more if NWMC's Application is granted than if its Application
18 is denied. Furthermore, while other state commissions will impact the size of the FUSF if
19 they grant ETC applications, these other state commissions have stepped up to their
20 fiduciary responsibility to require a more rigorous review of ETC applications. For
21 example, among the AT&T ILEC 13 states, the Oklahoma Corporation Commission has
22 adopted rigorous new rules for wireless ETCs,¹⁸ the Michigan Public Service

¹⁸ See, OAC 165:55-23-1, et seq.

1 Commission has adopted the FCC's ETC Designation Order,¹⁹ the Indiana Utility
2 Regulatory Commission has stated its intention to adopt the ETC Designation Order,²⁰
3 the Kansas Corporation Commission and the Arkansas Public Service Commission each
4 are considering adopting the ETC Designation Order,²¹ and the Public Utility
5 Commission of Texas has announced that it will open a rulemaking to consider adopting
6 the ETC Designation Order. As state commissions have intensified their scrutiny of ETC
7 applications, several carriers have withdrawn applications for ETC status, as did Nexus
8 Communications in Missouri (Case No. CA-02006-0282) and Budget Phone elsewhere,
9 after their application received closer study by the commissions' staffs and/or opposing
10 testimony was filed by consumer/public counsel and/or intervenors. These developments
11 reinforce the FCC's observation regarding the state commissions' role that "collectively
12 these decisions have national implications that affect the dynamics of competition, the
13 national strategies of new entrants, and the overall size of the federal universal service
14 fund."²²

15
16 **Q. WHAT HIGH-COST SUPPORT DOES AT&T MISSOURI RECEIVE, AND HOW**
17 **DOES THIS TYPE OF SUPPORT WORK?**

18 A. AT&T Missouri does not receive what is traditionally considered FUSF high-cost
19 support. AT&T Missouri does receive a small amount of FUSF high-cost Interstate

¹⁹ See, In the Matter, On the Commission's Own Motion, to Examine the Commission's Role in Eligible Telecommunications Carrier Determinations, Case No. U-14530, Order, 2005 Mich PSC LEXIS 356 (2005).

²⁰ See, In the Matter of the Designation of Eligible Telecommunications Carriers by the Indiana Utility Regulatory Commission Pursuant to the Telecommunications Act of 1996 and Related FCC Orders, Cause No. 41052-ETC 47, Opinion, 2005 Ind. PUC LEXIS (2005).

²¹ See, Docket No. 06-GIMT-446-GIT (Kansas); Docket No. 06050-R (Arkansas).

²² ETC Designation Order, para. 60.

1 Access Support (“IAS”).²³ IAS is the result of the FCC’s CALLS Order, which
2 decreased interstate access rates and replaced some of the lost revenue by raising the
3 Subscriber Line Charge (“SLC”) cap and providing FUSF high cost support.²⁴ AT&T
4 Missouri receives IAS in its zone 4 wire centers, and NWMC has requested to become an
5 ETC in AT&T Missouri’s Stanberry wire center, a zone 4 wire center. Under the FCC’s
6 CALLS Order, total nationwide IAS is capped at \$650 million. Addition of new ETCs
7 and any additional access lines associated with the new ETCs dilutes the support
8 available to the original recipients. The original support calculations were developed to
9 provide the support level deemed necessary for the original carriers. Increasing the
10 number of carriers and the number of access lines decreases the support available to
11 carriers currently receiving the support. Thus, carriers like NWMC diminish the IAS
12 provided to the original recipients.

13
14 **Q. ONE LAST QUESTION. WHAT IS THE FINANCIAL IMPACT ON ANY**
15 **RURAL ILEC WHICH OWNS NWMC IF THE ILEC LOSES AN ACCESS LINE**
16 **TO NWMC?**

17 A. Until the rural ILEC files a new line count report with the Universal Service
18 Administrative Company, it will continue to receive the same support amount for the

²³ The high-cost FUSF support mechanism is governed by Subpart D of the FCC’s Part 54 Universal Service rules. See, 47 CFR §§ 54.301 – 54.315 (captioned “Universal Service Support for High Cost Areas”). The IAS FUSF support mechanism is governed by Subpart J of the FCC’s Part 54 Universal Service rules...See, 47 CFR §§ 54.800 – 54.809 (captioned “Interstate Access Universal Service Support Mechanism”).

²⁴ In the Matter of Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers; Low-Volume Long Distance Users; Federal-State Joint Board On Universal Service, CC Docket No. 96-262; CC Docket No. 94-1; CC Docket No. 99-249; CC Docket No. 96-45, Sixth Report and Order in CC Docket Nos. 96-262 and 94-1, Report and Order in CC Docket No. 99-249, and Eleventh Report and Order in CC Docket No. 96-45, 15 FCC Rcd 12962 (2000) (“CALLS Order”), *aff’d in part, rev’d in part, and remanded in part*, Texas Office of Public Util. Counsel v. FCC, 265 F. 3d 313 (5th Cir. 2001), Order on Remand, 18 FCC Rcd 14976 (2003).

1 current year, and NWMC will also receive support based on the per line support amount
2 its ILEC affiliate receives. Next year, when new line counts are reported, the rural
3 ILEC's support need will be spread across fewer access lines, resulting in a higher per
4 line support amount, but the total support amount will remain essentially the same.
5 NWMC will receive the new higher per line support amount, thus increasing its total
6 support, so that a rural ILEC owner of NWMC would benefit from the new higher per
7 line support rate while also retaining all of its own support. In sum, a rural ILEC owner
8 receives FUSF support for its costs even though the customer has changed carriers, and
9 NWMC will receive support for serving the customer. The result is that a rural ILEC
10 owner essentially receives twice the FUSF support it had been receiving, yet still only the
11 one customer is being served.

12
13 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

14 **A. Yes.**

Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT POSITION?

A. I am employed by AT&T Services, Inc. ("AT&T"), as an Associate Director-Regulatory Policy in AT&T's Regulatory Planning and Policy group. My responsibilities include the development of Universal Service policy before the FCC and in all states in which AT&T does business, including Missouri.

Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND.

A. I hold Bachelors Degrees in Telecommunications and Political Science from the University of Oregon. I have also done additional graduate level coursework in Communications at the University of Iowa, and in Political Science at Portland State University.

Q. PLEASE SUMMARIZE YOUR TELECOMMUNICATIONS INDUSTRY WORK EXPERIENCE.

A. I have approximately seventeen years of telecommunications experience. In 1988, I began my career in the telephone industry at the National Exchange Carrier Association ("NECA") in the Industry Relations organization. I was responsible for developing Average Schedule methods and procedures, analyzing the impact of new technologies on the NECA member companies, developing special settlements for carriers implementing new technologies (e.g. Equal Access and SS7) and reviewing and analyzing Federal Communications Commission ("FCC") rule changes. I also assisted in the development of the NECA Access Charge Handbook. In 1992, I joined Bell Atlantic (now Verizon) and worked in a variety of regulatory roles both at Bell Atlantic-West Virginia and Bell Atlantic

Corporate in Maryland. My responsibilities included regulatory support, intercarrier settlement, regulatory finance and marketing. In 1997, I joined American Communications Services, Inc. (ACSI), later known as e.spire Communications, Inc., and now as Xspedius Management Company, as the Director of Carrier Management. My responsibilities with ACSI included wholesale billing, the development of reciprocal compensation policy, billing methods and the billing of reciprocal compensation, industry relations, and the creation and management of their telco cost control organization. In 1998, I left ACSI to provide executive consulting services to competitive local exchange carriers (CLECs) and to a small incumbent local exchange carrier ("ILEC"). This consulting work involved several subjects, including intercarrier compensation, and billing and cost control operations matters. In July 2000, I joined the AT&T family of companies. I work with AT&T's federal regulatory group on various policy matters, particularly universal service fund ("USF") issues, and often serve as the AT&T corporate 13-state policy witness for universal service fund matters. I also participate in the development of corporate policy for intercarrier compensation (i.e. reciprocal compensation and access charges) and have previously participated in the development of corporate policy for advanced services.

Q. WHAT IS YOUR PREVIOUS EXPERIENCE PRESENTING TESTIMONY TO STATE UTILITY REGULATORY COMMISSIONS?

A. I have filed testified before the Public Utility Commission of Nevada, the Indiana Utility Regulatory Commission, the Kansas Corporation Commission and the

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Illinois Commerce Commission. I have also participated in workshops at the Public Utility Commission of Texas, the Oklahoma Corporation Commission, the Indiana Utility Regulatory Commission, the California Public Utility Commission, the Illinois Commerce Commission, and the Missouri Public Service Commission.