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December 5, 2003

FILED

DEC 05 2003

Missouri Public Service Commission
Attn: Secretary of the Commission
200 Madison Street, Suite 100
P.O. Box 360
Jefferson City, Missouri 65102-0360

Missouri Public
Service Commission

Re: Case No. TO-2003-0531
Missouri RSA No. 7 Limited Partnership d/b/a Mid-Missouri Cellular

Dear Mr. Roberts:

Please find enclosed for filing in the above-referenced case an original and eight (8) copies each of the Rebuttal Testimony of Arthur P. Martinez filed on behalf of Intervenor Spectra Communications Group, LLC d/b/a CenturyTel and CenturyTel of Missouri, LLC.

A copy of this filing has been sent this date to counsel for all parties of record.

Sincerely,


Brent Stewart

CBS/bt

Enclosure

cc: Counsel for all parties of record
Arthur P. Martinez

FILED

DEC 05 2003

Exhibit No.: Missouri Public
Issue: Application for Designation as an Eligible
Telecommunications Carrier
Witness: Arthur P. Martinez
Sponsoring Party: Spectra Communications Group, LLC d/b/a
CenturyTel and CenturyTel of Missouri, LLC
Type of Exhibit: Rebuttal Testimony
Case No.: TO-2003-0531
Date Testimony Prepared: December 5, 2003

SPECTRA COMMUNICATIONS GROUP, LLC D/B/A
CENTURYTEL

AND

CENTURYTEL OF MISSOURI, LLC

REBUTTAL TESTIMONY

OF

ARTHUR P. MARTINEZ

CASE NO. TO-2003-0531

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REBUTTAL TESTIMONY

OF

ARTHUR P. MARTINEZ

**APPLICATION OF MISSOURI RSA NO. 7 LIMITED
PARTNERSHIP d/b/a/ MID-MISSOURI CELLULAR**

CASE NO. T0-2003-0531

Identification of Witness

Q. Please state your name and business address.

A. My name is Arthur P. Martinez. My business address is 220 Madison Street, Jefferson City, Missouri 65101.

Q. By whom are you employed and in what capacity?

A. I am the Director of Government Relations for both Spectra Communications Group, LLC d/b/a CenturyTel and CenturyTel of Missouri, LLC.

Q. Please describe your educational background and business experience.

A. I graduated from New Mexico State University with a Bachelor of Business Administration with a major in Managerial Finance and a Masters of Arts Degree in Economics with an emphasis in Regulatory Economics. I began my telecommunications career in 1993 as a staff member with the Telecommunications Division of the New Mexico State Corporation Commission ("NMSCC").¹ After leaving the NMSCC I worked for two independent rural telephone companies in positions ranging from Operations Manager to that of General Manager; my duties included regulatory and legislative affairs. I have been employed by CenturyTel for two years, working first in Colorado and now in Missouri.

Q. On whose behalf are you testifying in this case?

A. I am testifying on behalf of Spectra Communications Group, LLC d/b/a CenturyTel and CenturyTel of Missouri, LLC.

¹ In 1999 the New Mexico State Corporation Commission was combined with the New Mexico Public Utilities Commission to form the newly created New Mexico Public Regulation Commission.

1 **Q. What is the purpose of your testimony?**

2 A. The purpose of my testimony is to address the Application for Designation as an Eligible
3 Telecommunications Carrier ("ETC") by Missouri RSA No. 7 Limited Partnership d/b/a
4 Mid-Missouri Cellular ("MMC") seeking designation as an eligible telecommunications
5 carrier for the receipt of federal universal service fund ("USF") support in areas served by
6 both Spectra Communications Group, LLC d/b/a CenturyTel and CenturyTel of Missouri,
7 LLC and the direct testimony of both Mr. Michael K. Kurtis and Mr. Kevin Dawson in
8 support of said application. More specifically, to provide testimony focusing on the
9 following areas:

- 10 1. The Missouri Public Service Commission's ("Commission") role in designating a
11 carrier as an Eligible Telecommunications Carrier;
- 12 2. The critical role that federal universal service funding plays in the ability of local
13 exchange carriers to provide high quality, reasonably priced telecommunications
14 services to customers in high-cost rural areas of Missouri;
- 15 3. Why it would not be in the public interest for the Commission to grant MMC's
16 application insofar as it seeks ETC designation in the areas served by rural local
17 exchange carriers ("RLEC") in Missouri;
- 18 4. Why any ETC designation for MMC in areas served by RLECs should be
19 accompanied by a requirement that MMC provide high quality wireless service
20 throughout the RLEC's entire service area;
- 21 5. Why MMC's request for ETC designation in only a portion of Spectra's and
22 CenturyTel of Missouri, LLC's service area creates an unnecessary and costly
23 administrative burden and should be denied or, if the Commission believes
24 Spectra's service area should be redefined, why any redefinition should be
25 authorized only in a fashion that does not split established exchanges; and
- 26 6. Why any ETC designation for MMC in areas served by RLECs, at a minimum,
27 should be accompanied by public interest protection conditions to account for the
28 potential consequences from the inherent mobility of wireless service.

29
30 **Commission's Function in Designating an ETC**

31
32 **Q. Do you have any initial comments?**

1 A. As accurately described on page 2 of MMC's application, this "application represents a
2 case of first impression for the Commission." Therefore, the policies and procedures
3 adopted as a result of this application will establish how public monies, in the case of
4 wireless ETCs, will be spent to further the goals of universal service.

5 **Q. What is the Commission's role in the ETC designation process?**

6 A. Under Section 214(e)(2) of the Telecommunications Act of 1934, as amended by the
7 Telecommunications Act of 1996 (the "1996 Act"), a state commission *must* designate
8 more than one carrier as an ETC in a *non-rural area* if the carrier requesting designation
9 meets the requirements of Section 214(e)(1). However, a state commission *may*
10 designate more than one carrier in a *rural area only if* the commission finds that (i) the
11 designation is consistent with the public interest, convenience and necessity; (ii) the
12 carrier offers each of the services supported by the universal service support mechanism
13 as delineated in 47 C.F.R. § 54.101(a); and (iii) the carrier advertises the availability of
14 those services. In other words, this Commission's authority to designate MMC as an
15 ETC in rural areas served by RLECs is, to a large degree, discretionary, in that such
16 designation may only occur upon a finding by the Commission that the designation is
17 consistent with the public interest, convenience and necessity.

18
19 The most critical role that the Commission plays in this ETC designation process is its
20 determination of whether granting ETC status to a competitive carrier seeking
21 designation in an area already served by a RLEC is in the public interest. In addition,
22 while the Commission does not have a role in determining how much support each carrier
23 receives or how the support is calculated for a competitive ETC, it is responsible for
24 annually certifying to the FCC that federal USF funds received by ETCs in Missouri are
25 being used for the proper purposes.

26 **Q. Does the Commission have authority to deny MMC's application?**

27 A. Yes, the Commission may deny MMC's application if it finds that granting ETC status
28 would not be consistent with the public interest, convenience and necessity. In fact, the
29 Utah Public Service Commission decided it was not in the public interest to add a second
30 ETC in the service territories of Utah's rural carriers by an order issued July 21, 2000, in

1 Docket No. 98-2215-01. This order was subsequently upheld by the Utah Supreme Court
2 in *WWC Holding Co. v. Public Service Commission*, (March 5, 2002).

3 **Q. If MMC is granted ETC status, how will the amount of support it will receive from**
4 **the Federal USF be calculated?**

5 Under current FCC rules, a competitive ETC receives federal USF support based on the
6 incumbent carrier's costs, not its own costs. The incumbent rural carrier receives support
7 based on its actual embedded costs of providing service and making investments in high-
8 cost areas. This support is based on cost filings prepared by the incumbent carrier to reflect
9 expenditures made in the prior years and submitted to the Universal Service Administration
10 Corporation ("USAC") for review and determination of the appropriate per line amount of
11 support to be distributed to the incumbent. A competitive ETC, on the other hand, merely
12 reports the number of voice lines it is serving in its designated ETC area and then receives
13 the same amount of support per line as the incumbent.
14

15 **The Critical Role of Universal Service**

16

17 **Q. Why is it crucial for the Commission to scrutinize closely the public interest factor**
18 **in considering MMC's application?**

19 A. History reflects the critical link between the provider of last resort's access to sufficient
20 and predictable federal USF funding and the provision of high quality services in rural
21 exchanges. In the absence of such funding, there is a real risk that Missouri's rural
22 telecommunications customers will experience dramatic rate increases and will no longer
23 benefit from further investments in the telecommunications network. I point this out
24 because the Commission's ruling on MMC's application could well affect whether the
25 incumbent carriers, the providers of last resort in this State, will continue to have access
26 to sufficient federal USF support.

27 **Q. How would granting ETC status to MMC threaten universal service in Missouri's**
28 **rural exchanges?**

29 A. As noted by numerous parties in the FCC's pending Federal-State Joint Board on
30 Universal Service proceeding (CC Docket No. 96-45, FCC 031-1), the indiscriminate
31 granting of ETC status to wireless carriers is causing an alarming growth in the size of
32 the federal USF. This is a view held not just by incumbent RLECs, but has also been

1 recognized and expressed by consumer groups. In the Joint Board proceeding, the
2 National Association of State Utility Consumer Advocates filed Comments stating:

3
4 “Under the current ETC designation rules, in the near future there will likely be a
5 sharp upward curve in the growth of the high-cost fund related to the issues being
6 examined here. A substantial portion of this growth is a result of additional funds
7 needed to support multiple lines per customer and to support lines provided by
8 new competitive eligible telecommunications carriers (“CETCs”), mostly wireless
9 ETCs.
10

11 * * * * *

12 Thus, under the current rules that provide support for all lines in high-cost areas, a
13 substantial portion of the growth of the high-cost fund will be attributable to the
14 support of additional lines provided by wireless carriers.
15

16 * * * * *

17
18 The current and anticipated rate of growth in fund requirements needed to support
19 additional lines suggests that the current support mechanisms will be strained
20 unless the Commission makes substantial changes to the ETC designation rules.”
21

22 There can be no doubt that growth in the federal fund necessitated by multiple wireless
23 ETC designations ultimately will jeopardize the sustainability of the fund for all
24 providers, including the incumbent providers of last resort.
25

26 **Q. What evidence do you have regarding the extent to which designation of multiple**
27 **ETCs is causing the size of the federal USF to increase?**

28 A. Upon review of data available on the USAC’s website, [www.universalservice.org/](http://www.universalservice.org/overview/filings)
29 [overview/filings](http://www.universalservice.org/overview/filings), I found the following: In the Fourth Quarter of 2001, competitive ETCs
30 drew approximately \$2.7 million per quarter from the federal USF. By the Fourth
31 Quarter of 2002 that amount had grown to over \$41 million per quarter and as of the
32 Fourth Quarter of 2003 the amount drawn by competitive ETCs had grown to in excess
33 of \$62 million per quarter. As recently as the First quarter of 1999, the contribution
34 percentage assessed to carriers which then pass the charge on to their customers, was
35 approximately 3.2%. By the end of 2001, that percentage had increased to 6.9%, by the
36 end of 2002 it was up to 7.3%, and it currently is approximately 9.2%.

1
2 As more competitive ETCs are designated by state commissions, the demand on the
3 federal USF and the corresponding assessment to carriers, and ultimately to their
4 customers, will continue to escalate.

5
6 **Q. What is it about MMC's ETC application in this case that heightens this concern**
7 **about growth in demands on the federal USF fund?**

8 A. Spectra is concerned that each additional ETC designation puts more and more pressure
9 on the limited resources of the federal USF and therefore jeopardizes the sustainability of
10 the fund and the support flowing to providers of last resort. Spectra believes the
11 downside risk evolving from the designation of multiple competitive ETCs in rural areas
12 (*i.e.* impairment of the ability of providers of last resort to provide basic service) is
13 becoming dangerously high. Consequently, Spectra believes that all state commissions,
14 including this Commission, must be particularly diligent in their review and scrutiny of
15 requests for ETC designation in areas served by RLECs so that quality telephone services
16 at reasonable rates can continue to be available for customers in remote high-cost rural
17 areas of the state.

18 **Q. Would granting ETC status to MMC have an impact on telecommunications carriers**
19 **other than incumbent LECs?**

20 A. Yes, it would affect other carriers in at least two ways. First, under the current rules,
21 granting ETC status to MMC would increase the demand on the federal USF and therefore
22 result in higher surcharges to all providers of interstate services which in turn results in
23 higher surcharges to end user customers. This situation applies to interexchange carriers as
24 well as wireless providers.

25
26 Second, granting ETC status to one wireless provider creates the incentive for other
27 wireless providers to seek ETC status for the sole purpose of receiving federal USF
28 payments. Since wireless ETCs receive payments from the federal USF that are based on
29 the ILEC's cost of service, the funds are increased cash flow to wireless providers. This
30 phenomenon will likely occur in Missouri as Sprint and Alltel, two carriers who are
31 actively seeking ETC status in various other states, make application in Missouri. Wireless

1 providers cannot afford to allow their competitors to receive this funding and gain the
2 competitive advantage. Thus, they are seeking ETC designation so they also can obtain the
3 federal USF funds. As a result, the cycle continues and the time of the inevitable impact on
4 rural customers grows nearer.

5 **The Public Interest**

6
7 **Q. What public interest factors should the Commission consider in determining**
8 **whether to designate MMC as an ETC in the rural areas served by RLECs?**

9 **A.** Spectra and CenturyTel of Missouri believes that the Commission should consider at
10 least the following issues:

- 11 (1) Whether the service area in question is being adequately served by the incumbent
12 carrier;
- 13 (2) Whether the introduction of MMC as an additional ETC will enhance universal
14 service in the designated area;
- 15 (3) Whether providing additional funding to MMC, which is already providing
16 wireless service to customers in the proposed areas of designation, will benefit
17 consumers in view of the fact that granting ETC status will result in higher USF
18 surcharges to all telecommunications customers in the state;
- 19 (4) Whether MMC has demonstrated a commitment to provide service to all
20 customers throughout the areas for which it is seeking ETC status;
- 21 (5) Whether MMC is qualified to provide high quality and reasonably priced
22 telecommunications services throughout its designated ETC service area if the
23 incumbent LEC were to withdraw its ETC status following MMC's ETC
24 designation.
- 25 (6) Whether it is in the public interest for customers in low cost exchanges to pay
26 surcharges to help support wireless service in high-cost rural areas, in addition to
27 supporting the current wireline service.

28
29 The Commission also should consider whether there is a regulatory disparity between the
30 incumbent RLEC and MMC. When ETC status is granted to a competitive carrier, the
31 Commission is essentially determining that there is more than one provider in the
32 designated areas that is fully capable and willing to provide basic telecommunications

1 services throughout these areas. Once this occurs, basic service should immediately be
2 declared subject to effective competition and the incumbent should be regulated on the
3 same basis as the competitor, including total pricing flexibility on basic service rates.

4 **Q. Does Spectra believe the benefits of designating MMC an ETC in the rural areas it**
5 **proposes outweigh the costs?**

6 A. No. To the contrary, Spectra believes:

- 7 1) That MMC has failed to demonstrate that granting it ETC designation in the rural
8 areas it proposes will enhance universal service or otherwise provide additional
9 benefit to consumers in those areas or that MMC needs the federal USF in these
10 areas where it has provided wireless services to customers for some time;
- 11 2) That MMC has failed to demonstrate with sufficient specificity that it is
12 committed to extend its network beyond the areas that it already serves;
- 13 3) That MMC would use the federal USF support to serve predominately low cost
14 customers in relatively densely populated areas, even though the support it seeks
15 is intended to cover the cost of serving customers in remote, sparsely populated
16 areas;
- 17 4) That MMC would not be providing service throughout the "ETC service area"
18 and thus would be engaged in cream skimming; and
- 19 5) That MMC would create unnecessary and costly administrative burdens in those
20 exchanges in which it seeks only to serve a portion of the exchange.

21 **Q. What is the Federal-State Joint Board on Universal Service and what is the current**
22 **status of its work on USF issues?**

23 A. Issues relating to universal service have been referred by the FCC to the Federal-State
24 Joint Board on Universal Service in connection with the FCC's longstanding docket
25 considering universal service issues, CC Docket No. 96-45. The Federal-State Joint
26 Board on Universal Service is made up of commissioners from the FCC and state
27 commissions. It considers universal service matters and makes recommendations to the
28 FCC.

1 A number of critical universal service issues are under consideration by the Federal-State
2 Joint Board at this time including possible amendments to FCC rules on universal
3 service, including but not limited to the rules governing ETC designations.
4

5 While a specific date for a decision from the Federal-State Joint Board has not been
6 announced, Spectra and CenturyTel of Missouri believes the Joint Board will issue
7 recommendations by the end of 2003 or January 2004 and that its recommendations are
8 likely to impact the manner in which state commissions are to conduct their ETC
9 designation proceedings.

10
11 **Service Area Redefinition**

12
13 **Q. What is it about MMC's application in this case that is of particular concern to**
14 **Spectra?**

15 A. MMC does not ask for ETC designation throughout Spectra's entire Missouri service area,
16 but only certain parts. Furthermore, while the information provided with MMC's
17 application and direct testimony does not provide sufficient detail, apparently MMC seeks
18 ETC designation for only parts of Spectra's Braymer, Concordia, Kingston and Lawson
19 exchanges (Appendix E to MMC Application).² As a result, MMC seeks to have Spectra's
20 service area redefined.

21 **Q. What is meant by the term "service area" in the context of ETC issues?**

22 A. In the Telecommunications Act of 1996 Congress defined "service area" as a geographic
23 area assigned by a state commission to an ETC for the purpose of determining universal
24 service obligations and support mechanisms. An ETC must provide the elements of basic
25 service, as defined by the FCC, throughout the designated "service area." In the case of an
26 area served by a rural telephone company, "service area" means such company's "study
27 area" unless and until the FCC and the state regulatory commission establish a different

² In their application, MMC identified the exchanges of Braymer, Concordia, Harrisburg, Kingston, Lawson, Prairie Home, Rocheport and Woolridge as belonging to Spectra Communications Group, LLC d/b/a/ CenturyTel. When in fact, the Prairie Home, Rocheport and Woolridge exchanges are owned by CenturyTel of Missouri, LLC. Although Harrisburg is listed as an exchange, it is but one of several wire centers which make up CenturyTel of Missouri, LLC's Columbia exchange.

1 definition of service area for such company after taking into account recommendations of a
2 Federal-State Joint Board. 47 U.S.C. § 214(e).

3 **Q. What is meant by the term “study area?”**

4 A. A study area is a geographic segment of an incumbent local exchange carrier’s (“ILEC’s”) telephone operations. Generally, a study area corresponds to an ILEC’s entire service
5 territory within a state.³ Thus, ILECs operating in more than one state typically have one
6 or more study areas for each state, and ILECs operating in a single state typically have a
7 single study area but may have more than one. Study area boundaries are important
8 because ILECs perform jurisdictional separations to determine high cost loop support
9 amounts and generally tariff their rates at the study area level. If a competitive carrier like
10 MMC seeks to be an ETC in the territory served by the RLEC, the competitive carrier’s
11 ETC “service area” must, at a minimum, serve the RLEC’s entirely; in other words, the
12 competitive ETC’s service area must be identical with the RLEC’s study area, unless the
13 RLEC’s study area is redefined by the FCC and the state commission.

15 **Q. Is Spectra’s service area currently equivalent to its study area?**

16 A. Yes. Spectra is comprised of one study area in Missouri. CenturyTel of Missouri, LLC is
17 a legal entity comprised of four distinct study areas: Central, Belle-Herman, Southern and
18 Southwest. The Belle-Herman and Southern study areas are rural. It should be noted that
19 on page 8 lines 17-19, Mr. Kurtis incorrectly classifies CenturyTel of Missouri, LLC as
20 being entirely non-rural. Schedule 1 to my rebuttal testimony identifies all the current rural
21 exchanges in each of the three rural study areas for both Spectra and CenturyTel of
22 Missouri.

23 **Q. What obligation does the Telecommunications Act of 1996 impose upon an ETC within its service area?**

25 A. As I mentioned earlier, pursuant to Section 214(e)(1) of the 1996 Act, a common carrier
26 designated as an ETC must offer and advertise services supported by the federal universal
27 service mechanisms throughout its designated service area. Both MMC’s application, at
28 page 4, and Mr. Kurtis’ testimony, at page 10, address the nine supported services.

29 **Q. How does the requirement that an ETC serve throughout its designated service area impact MMC’s application?**
30

³ There are companies, like CenturyTel of Missouri, LLC, who’s service area consists of multiple study areas.

1 A. MMC's licensed wireless service area apparently does not authorize it to provide service
2 throughout the study area of Spectra. Thus, MMC cannot fulfill its obligations as an ETC
3 unless there is a redefinition of Spectra's service area. Without such redefinition, MMC's
4 application calling for designation in the study area of Spectra clearly should be denied.

5 Q. **Does Spectra have concerns about MMC's proposal for redefinition of the service**
6 **areas?**

7 A. Yes. For several reasons.

8 Q. **Please Explain.**

9 A. MMC's application seems to suggest that both Spectra's and CenturyTel of Missouri's
10 study area be redefined within the boundaries of its CGSA. As noted in Mr. Kurtis'
11 testimony on page 5, and as depicted on Appendix D to MMC's application, the Company
12 has provided this Commission with a crude hand-drawn boundary of their CGSA. This
13 information cannot reasonably be relied upon to determine a customer's location. This lack
14 of detail makes it impossible to fully respond to MMC's proposal and further supports my
15 discussion surrounding mobility and how it can be used to arbitrage the system.

16 Q. **Will MMC's proposal to serve only a portion of the vast majority of Spectra's and**
17 **CenturyTel of Missouri's service area cause both companies to incur unnecessary**
18 **administrative burdens.**

19 A. Yes, it appears that MMC intends its proposed redefinitions to split exchanges within the
20 current service area of Spectra and CenturyTel of Missouri. (Application Appendix E.)
21 Spectra currently reports loops to the USAC for federal USF purposes on a study area
22 basis. Although Spectra submits filings on a study area basis, USF-High Cost Loop
23 support is frozen based on 47 CFR 54.305. Also, because Spectra already has competition,
24 the company submits line counts by wire center on a quarterly basis to USAC based on its
25 federal disaggregation plan. Thus, Spectra would be forced to create a new record-keeping
26 procedure for reporting loops even if MMC's proposed redefinition called for a split
27 consistent with exchange boundaries. While Spectra maintains certain data at an exchange
28 level that would help alleviate some of the burden of a record-keeping modification with a
29 redefinition consistent with exchange boundaries, any redefinition below the exchange
30 level would cause significant financial and administrative burdens. Spectra would need to

1 substantially overhaul its record-keeping mechanisms and create new systems, since it does
2 not maintain data below the exchange level.

3 **Q. What does Spectra recommend with regard to MMC's proposal that RLEC service**
4 **areas be redefined?**

5 A. MMC should be required to provide detailed maps and other appropriate documentation to
6 explain where the redefinitions would occur so the Commission and the parties have an
7 opportunity to fairly evaluate the proposal. Without this information, the proposed
8 redefinitions clearly should be rejected.

9
10 Spectra believes that the problems associated with redefinitions of the service areas are
11 such that the public interest would not be served by the redefinitions proposed by MMC. If
12 the Commission is unable to make a determination that the proposed redefinitions would be
13 in the public interest, the proposals should be denied or, at the very least, should be
14 restricted so that any split of existing service areas does not split existing exchanges.

15 **Q. What concerns does Spectra have about the mobility of the wireless services for which**
16 **MMC proposes to obtain ETC designation and federal USF support?**

17 A. While the benefits of mobility are frequently touted, wireless mobility leads to serious
18 concerns in the context of universal service support mechanisms. Spectra and other
19 wireline incumbent ETCs report their loops for federal USF purposes by identifying the
20 loops where service is provided to a customer at a fixed location – residence or business.
21 Wireless ETCs face a different situation due to the inherent mobility of wireless service.
22 MMC acknowledges that it will use its existing wireless network facilities to provide
23 service to its customers for which it plans to claim federal USF support. Naturally, this
24 will include the conventional cellular handset. The problem would arise when one of
25 MMC's customers signs up for wireless service within MMC's designated rural high cost
26 ETC area but then travels with his or her cellular handset and makes calls in different
27 service areas across MMC's entire licensed coverage area which includes non-rural areas
28 and multiple states. The ability to move the handset around the wireless service area, and
29 even into other wireless service areas, makes it arbitrary to assign a mobile user to a
30 specific high cost area for determination of USF support when, for example, that customer

1 may make or receive only one out of ten calls in the high cost area while nine out of every
2 ten calls are made or received in lower cost areas.

3
4 Thus, while MMC may view mobility as a benefit of ETC designation, that same mobility
5 could introduce new market distortions into the universal service system by allowing MMC
6 to receive windfall subsidies that place inappropriate additional demands on an already
7 expanded universal services fund. The scenario I described above of the customer
8 traveling with his or her wireless handset outside the high cost study area is not far-fetched.
9 Consider the customer who signs up for MMC's service in Lawson, a high-cost area served
10 by Spectra and within MMC's licensed area, where wireless service is not currently
11 available to consumers, but in fact uses the cellular handset predominantly in a low cost
12 area such as a worksite in the Kansas City area. This situation also raises serious concerns
13 about whether the universal service support would be used as required by law: "A carrier
14 that receives such support shall use that support only for the provision, maintenance, and
15 upgrading of facilities and services for which the support is intended." 47 U.S.C. § 254(e).
16 These concerns are central to the fundamental purposes of the universal service system.

17 **Q. What does Spectra recommend the Commission do to take these concerns into**
18 **account?**

19 **A.** Clearly, unless appropriate restrictions or conditions are adopted, the mobility of MMC's
20 service is likely to result in MMC receiving USF support to which it is not entitled. We are
21 not aware of any steps that MMC has taken to limit the mobility of its handsets to use in
22 only its ETC service area. MMC should be required to address whether such restriction is
23 technologically feasible or, if not, what other conditions or restrictions may be available to
24 protect against the very real possibility that the universal support system will be
25 undermined.

26 **Q. Do you have any suggestions in this regard?**

27 **A.** If ETC designation is to be approved for MMC, I would urge the Commission to condition
28 such designation on a requirement that MMC monitor the use of its customers with billing
29 addresses within its ETC designated area to assure that their use occurs primarily within the
30 ETC area. If MMC finds that a customer is using its wireless service primarily outside the
31 ETC designated area, MMC should be barred from reporting that customer for federal USF

1 funding purposes. MMC should be required to document its findings so that Commission
2 Staff would be in a position to evaluate MMC's monitoring and reporting procedures.

3 **Q. Do you have any other concerns regarding MMC's application that you care to**
4 **address?**

5 A. Yes. In Attachment II of Mr. Kurtis' direct testimony in response to Commission Staff
6 data request 11 MMC readily admits that they are not E-911 compliant and will only
7 upgrade their network if required by a "public emergency service provider makes
8 arrangements with [MMC] for delivery of such information." One of the nine core
9 supported services to be offered by an ETC is access to emergency services. MMC will be
10 receiving compensation based on Spectra's cost to provision E-911 but only provide basic
11 911. This does not only slight the customers but it is another example of why the grant of
12 MMC application is not technologically and competitively neutral.

13 **Q. In your earlier testimony, you expressed a concern about asymmetric regulation if**
14 **MMC's proposed redefinitions of service areas are permitted. Do you foresee other**
15 **problems with asymmetric regulation?**

16 A. Yes. As I explained earlier in my testimony, if MMC is granted ETC designation in an
17 area already served by an incumbent ETC, the Commission is essentially determining that
18 there is more than one provider in the area fully capable and willing to provide basic
19 telecommunications services throughout the designated areas. In this competitive
20 environment, regulatory parity should exist. However, once again, if ETC status is granted
21 to MMC, a condition of asymmetric regulation will occur. ILECs offer their customers
22 unlimited local calling within certain prescribed portions of their service areas authorized
23 and regulated by the Commission. If the customer makes a call beyond the prescribed
24 areas, the customer must pay a long distance toll for the call. Wireless carriers such as
25 MMC, however, have much larger local calling areas. In MMC's case its local calling area
26 is advertised to its customers as extending throughout Missouri. Thus, the customers of
27 Spectra and other RLECs must pay long distance tolls for many calls that are included as
28 free local calls for MMC. This regulatory inequity puts RLECs at a competitive
29 disadvantage and does not correlate with the clear message of the Commission's
30 competitive ETC determination.

1 **Recommendations**
2

3 **Q. What is the Spectra's recommendation to the Commission in this case?**

4 A. Spectra submits that MMC has failed to demonstrate that ETC designation in the
5 proposed rural areas served by RLECs will result in enhancement of universal service or
6 sufficient benefits to the public, and that a balancing of the public interest factors
7 supports denial of MMC's application as it pertains to the rural areas served by RLECs.
8 As an alternative to denying MMC's application, Spectra recommends that the
9 Commission stay this case, at least to the extent MMC seeks designation in areas served
10 by RLECs, until the Federal-State Joint Board issues its recommendations concerning
11 universal service and until the FCC reaches a decision and issues revised USF rules.

12 **Q. Do you have any concluding remarks?**

13 A. Missouri relies heavily on the ability of the rural telecommunications carriers to recover a
14 portion of the cost of providing service in rural areas of Missouri from the existing
15 federal USF mechanisms. This Commission should give serious consideration to the
16 question of whether it is in the public interest to permit subsidization of competition in
17 sparsely populated rural areas of the State. The dynamics of distance and density that
18 make rural areas costly to serve do not decrease as a result of the introduction of
19 competition; they actually increase for all market participants. The current federal USF
20 mechanisms will not endure indiscriminant and unrestricted demand on its USF funding
21 base. The unrestricted approvals by state commissions of ETC petitions in rural high-
22 cost areas perpetuates unsustainable incentives for the new entrant, in this case MMC,
23 and disincentives for the incumbent. Over time, this prescription will result in poor
24 and/or inadequate service at higher cost rather than technological innovation and
25 efficiencies. Such a potentially unwelcome outcome was envisioned in the 1996
26 Telecommunications Act and protections against such an outcome were built in through
27 its exemptions for rural providers and its mandate to the states to preserve the public
28 interest. MMC's application for ETC designation in areas served by RLECs is clearly
29 not in the public interest and should be denied or, at a minimum, should be stayed until
30 federal USF and ETC issues are resolved by the FCC.

31 **Q. Does this conclude your testimony?**

1 A. Yes it does.

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

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)


AFFIDAVIT

I, **Arthur P. Martinez**, of lawful age and being duly sworn, state:

I am presently Director of Government Relations for CenturyTel.
My business address is 220 Madison Street, Jefferson City,
Missouri 65101.

Attached hereto and made a part hereof for all purposes is my
Rebuttal Testimony in Case No. TO-2003-0531.

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.


Arthur P. Martinez

Subscribed and sworn to before me this 04 day of December, 2003.


Mary Siemons - Notary Public

My commission expires: July 8, 2004



Spectra Communciations Group, LLC (SAC 421151)

Schedule 1
TO-2003-0531
Rebuttal Testimony of
Arthur P. Martinez
CenturyTel

EXCHANGE NAME

Amazonia
Annapolis
Arcola
Aurora
Avenue City
Avilla
Belgrade
Bellevue
Birch Tree
Bolckow
Boss
Braymer
Bronaugh
Brunswick
Bunker
Caledonia
Cameron
Canton
Centerville
Clarence
Clarksdale
Collins
Concordia
Cosby
Dadeville
Dalton
Easton
Edgar Springs
Eldorado Springs
Ellsinore
Elmer
Eminence
Everton
Ewing
Fillmore
Fremont
Golden City
Gorin
Greenfield
Grovespring
Grower
Hamilton
Hartville
Helena
Houston
Humansville
Hunnewell
Irondale
Ironton
Jericho
Kahoka
Keytesville
Kidder
Kingston

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Arthur P. Martinez
CenturyTel

EXCHANGE NAME

Labelle
Laddonia
Lagrange
Laplata
Lawson
Lesterville
Lewistown
Licking
Lowry City
Macon
Manes
Maysville
Milo
Monroe City
Montauk
Monticello
Mountain Grove
Mt. Vernon
Nebo
Norwood
Oates
Osborn
Osceola
Palmyra
Paris
Perry
Plattsburg
Potosi
Raymondville
Revere
Roby
Rockville
Rosendale
Santa Fe
Sarcoxie
Savannah
Schell City
Shelbina
Shelbyville
Sheldon
Stewartsville
Stoutsville
Timber
Trimble
Turney
Van Buren
Vanzant
Walker
Wayland
Weableau
West Quincy
Whitesville
Winona

EXCHANGE NAME

Belle
Hermann

Schedule 1
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Arthur P. Martinez
CenturyTel

CenturyTel of Southern Missouri (SAC 429786)

EXCHANGE NAME

Cabool
Mountain View
Seymour
West Plains
Willow Springs