

EXHIBIT

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ETC Designation

Meisenheimer/Rebuttal

Public Counsel

TO-2006-0172

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Service Commission

EXHIBIT

REBUTTAL TESTIMONY

OF

BARBARA A. MEISENHEIMER

Submitted on Behalf of the Office of the Public Counsel

APPLICATION OF MISSOURI RSA NO. 5 PARTNERSHIP
FOR ETC DESIGNATION

CASE NO. TO-2006-0172

March 1, 2006

Exhibit No. 7
Case No(s) TO-2006-0172
Date 6-22-06 Rptr XF

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REBUTTAL TESTIMONY

OF

BARBARA MEISENHEIMER

CASE NO. TO-2006-0172

APPLICATION OF MISSOURI RSA 5 PARTNERSHIP FOR ETC STATUS

I. INTRODUCTION

Q. PLEASE STATE YOUR NAME, TITLE, AND BUSINESS ADDRESS.

A. Barbara A. Meisenheimer, Chief Utility Economist, Office of the Public Counsel,
P. O. 2230, Jefferson City, Missouri 65102.

Q. PLEASE SUMMARIZE YOUR EDUCATIONAL AND EMPLOYMENT BACKGROUND.

A. I hold a Bachelor of Science degree in Mathematics from the University of Missouri-Columbia (UMC) and have completed the comprehensive exams for a Ph.D. in Economics from the same institution. My two fields of study are Quantitative Economics and Industrial Organization. My outside field of study is Statistics. I have taught Economics courses for the following institutions: University of Missouri-Columbia, William Woods University, and Lincoln University. I have taught Economics courses at both the undergraduate and graduate level. I have also taught undergraduate level Mathematics for the University of Missouri-Columbia and undergraduate level Statistics for William Woods University.

1 Q. PLEASE SUMMARIZE YOUR EXPERIENCE RELATED TO UNIVERSAL SERVICE AND
2 WIRELESS ISSUES.

3 A. I served on the Federal/State Universal Service Joint Board Staff for a number of
4 years. In this capacity, I reviewed information on various issues related to the
5 Federal Universal Service Fund including, but not limited to, carrier eligibility,
6 federal high cost support, and the federal Lifeline and LinkUp programs. I have
7 assisted the Federal/State Joint Board in preparing recommendations for the FCC
8 in implementing the universal service related provisions of the 1996
9 Telecommunications Act. As a Federal/State Joint Board staff member, I also
10 reviewed Joint Board Monitoring Reports and FCC Telephone Penetration
11 Reports designed to evaluate the performance of the federal and state programs in
12 assisting low-income customers. I also participated in a national forum on
13 universal service issues sponsored by the Consumer Energy Council of America
14 (CECA) and contributed income-based subscribership data compiled by the U.S.
15 Census Bureau under contract with the Missouri Public Counsel's Office. I am
16 also a past member of the North American Numbering Council. The North
17 American Numbering Council advises the FCC on numbering issues related to
18 both wireline and wireless services. At the State level, I participated in industry
19 workshops to develop recommendations on components of the Missouri Universal
20 Service Fund. I currently assist the Public Counsel in his duties as a member of
21 the Missouri Universal Service Board. I have regularly submitted testimony on
22 behalf of Public Counsel since 1996 on various issues, including universal
23 service, numbering, calling scopes, rate cases, price caps, and other competitive
24 issues.

1 Q. WHAT INFORMATION DID YOU REVIEW IN PREPARATION OF YOUR TESTIMONY?

2 A. I reviewed the Application and the direct testimony of James Simon, Kathryn
3 Zentgraf and Jonathan Reeves filed on behalf of Missouri RSA No. 5 Partnership
4 (MO5 or Company), portions of the Missouri Public Service Commission rules,
5 the Federal Communications Commission (FCC) rules and Report and Orders,
6 related to universal service.

7 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

8 A. The purpose of my testimony is to respond to the Company's Application and
9 supporting testimony.

10

11 ***II. SUMMARY OF POSITION IN RESPONSE TO THE APPLICATION AND***
12 ***SUPPORTING TESTIMONY***

13 Q. WHAT IS YOUR GENERAL RESPONSE TO THE COMPANY'S APPLICATION?

14 A. Although Public Counsel recognizes the potential benefits of competitive
15 expansion in Missouri, we do not support the Application in its present form. The
16 Application is incomplete and lacks a number of fundamental consumer
17 protections. Designating a wireless ETC in Missouri raises unique considerations
18 related to the jurisdictional oversight of supported service offerings in Missouri as
19 well as the Commission's responsibility to verify that federal universal service
20 support is used only for the purposes set forth in the 1996 Telecommunications
21 Act.

22 With respect to the availability of supported services, the Company has
23 provided incomplete information on its planned offerings and future expansion
24 plans for Missouri. The Company currently serves a significant portion of

1 Missouri and, together with its ownership, possesses substantial technical and
2 financial resources. However, the Company needs to provide more specific
3 evidence that it can reasonably serve ubiquitously and on a timely basis
4 throughout the requested designated areas including areas currently subject to
5 “spotty” service. Further, the Application and supporting testimony should be
6 supplemented to provide a more detailed five-year plan that demonstrates how it
7 intends to use USF support to expand and enhance the availability of supported
8 services in the geographic area for which it receives support.

9 With respect to the price, terms and conditions of service, the Company
10 already provides its customers with many of the services identified for Federal
11 universal service support and has committed in its Application and testimony to
12 offer the remaining supported services. However, the Company’s testimony lacks
13 sufficient detail to ensure that its offerings are comparable to the ILECs’ with
14 respect to the cost, terms and conditions of receiving supported services. The
15 record needs to specifically prove assurance that reasonably priced service will be
16 available to Lifeline customers on an ongoing basis. The Company should
17 provide proposed additional materials detailing its ILEC comparable offerings, its
18 Lifeline offerings, operator service fees and terms and conditions of service. The
19 ILEC comparable offerings and at least one Lifeline offering should provide the
20 same calling scope as the incumbent for both outbound and inbound local calling,
21 including EAS points. To ensure adequate Commission access to company
22 records and facilitate monitoring of the Company’s supported services. The
23 company should also commit to file basic information on an ongoing basis with
24 the Commission.

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**Q. HAS PUBLIC COUNSEL DEVELOPED A FINAL POSITION ON THE REDEFINITION OF
INCUMBENT STUDY AREAS?**

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4

A. Not at this time. Public Counsel has reviewed the Applicant's position on this
issue and recommends certain conditions to address local calling scope issues.

5

6

However, before taking a final position, Public Counsel wants to review the
evidence submitted by the incumbent carrier parties and the whole record.

7

8

**Q. WHAT CONDITIONS DO YOU RECOMMEND IF THE COMMISSION APPROVES THE
APPLICATION?**

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A. If the Commission decides to approve the Company's Application, Public
Counsel recommends that the Commission attach condition to the grant of ETC
status that would add monitoring capabilities and provide additional consumer
protections consistent with the public interest. Public Counsel suggests the
following minimum conditions to the ETC status approval:

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- The Application and supporting testimony be supplemented to adhere to the requirements established by the FCC for carriers certified under section 214(e) (6) including but not limited to the submission of a more detailed five year plan demonstrating how it intends to use USF support to expand and enhance the availability of supported services in each geographic area for which it receives support.
- The Company file and maintain with the Commission a current copy of detailed service area maps, a list of the local telephone exchanges in which service is available, a description of any portions of an exchange where it is infeasible for the Company to serve and an illustrative copy of customer service agreements;
- The Company offer an ILEC comparable plan and Lifeline plan that provides service and waives all toll and roaming charges on calls to and from any telephone exchange area for which the

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customers billing address would otherwise have expanded local service if served by the incumbent carrier;

- The Company commit to refrain from increasing the rate or adversely altering the service elements of the approved Lifeline offerings without prior approval by the Commission;
- The Company informs prospective Lifeline customers of the price of the lowest cost handset available. This would not limit the Company's ability to inform a prospective Lifeline customer of other available handsets;
- The Company discloses all its current resale agreements that may be used as an additional method of serving customers that request service in areas where customers have access to telephone service but the Company is unable to provide facilities-based service using its own facilities or those of another carrier with which it has partnered to provide wireless service. To the extent that the Commission determines that the current resale agreements are inadequate to cover gaps in the Company's coverage, the Company should be required to seek such agreements and report on its progress to the Commission as an element of its annual reporting requirements.

Q. IS THE COMPANY SEEKING SUPPORT FROM THE MISSOURI UNIVERSAL SERVICE FUND?

A. Based on the Company's application, it appears that the Company is not seeking support from the Missouri Universal Service Fund at this time.

Q. DO THE COMPANY'S PROPOSED SERVICE OFFERINGS SATISFY THE CRITERIA FOR STATE USF SUPPORT?

A. No, setting aside the threshold legal issue of whether a wireless carrier can receive MoUSF support, the Company does not satisfy the criteria for receiving current State low-income support or high cost support if Missouri provided it.

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III. BACKGROUND ON UNIVERSAL SERVICE PROVISIONS

Q. WHAT ARE THE RELEVANT PROVISIONS OF THE 1996 TELECOMMUNICATIONS ACT THAT THAT THE COMMISSION SHOULD CONSIDER IN THIS CASE?

A. The relevant provisions are contained in Section 254 and Section 214 of the 1996 Telecommunications Act.

Section 254(e) mandates that:

- Only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific Federal universal service support.
- A carrier that receives such support shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

Section 254(f) allows:

- A State may adopt regulations not inconsistent with the Commission's rules to preserve and advance universal service.

Section 214(e) (1) defines eligible carriers and establishes minimum service and advertising requirements:

- A common carrier designated as an eligible telecommunications carrier under paragraph (2) or (3) shall be eligible to receive universal service support in accordance with Section 254 and shall, throughout the service area for which the designation is received.
- A common carrier designated as an eligible telecommunications carrier under paragraph (2) or (3) shall, throughout the service area for which the designation is received, offer the services that are supported by Federal universal service support mechanisms under section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier.)
- A common carrier designated as an eligible telecommunications carrier under paragraph (2) or (3) shall, throughout the service area for which the designation is received, advertise the availability of such services and the charges therefore using media of general distribution.

1 Section 214(e) (2) establishes the Missouri Commission's authority to designate
2 eligible telecommunications carriers:
3

- 4 • A State commission shall upon its own motion or upon request designate a
5 common carrier that meets the requirements of paragraph (1) as an eligible
6 telecommunications carrier for a service area designated by the State
7 commission.
8
- 9 • Upon request and consistent with the public interest, convenience, and
10 necessity, the State commission may, in the case of an area served by a
11 rural telephone company, and shall, in the case of all other areas, designate
12 more than one common carrier as an eligible telecommunications carrier
13 for a service area designated by the State commission, so long as each
14 additional requesting carrier meets the requirements of paragraph (1).
15
- 16 • Before designating an additional eligible telecommunications carrier for
17 an area served by a rural telephone company, the State commission shall
18 find that the designation is in the public interest.
19

20 Section 214(e) (3) establishes the Missouri Commission's authority to designate
21 eligible telecommunications carriers for unserved areas. This is currently not an
22 issue in this proceeding.
23

24 Section 254(5) defines the service area for the purpose of universal service:
25

- 26 • The term 'service area' means a geographic area established by a State
27 commission for the purpose of determining universal service obligations
28 and support mechanisms.
29
- 30 • In the case of an area served by a rural telephone company, 'service area'
31 means such company's 'study area' unless and until the Commission and
32 the States, after taking into account recommendations of a Federal-State
33 Joint Board instituted under section 410(c), establish a different definition
34 of service area for such company.
35

36 **Q. WHAT SERVICES HAS THE FCC DETERMINED WILL BE SUPPORTED?**

37 **A. The FCC's supported services are set forth in 47 C.F.R. § 54.101(a):**

- 38 a. voice grade access to the public switched telephone network;
- 39 b. local usage;
- 40 c. dual tone multi-frequency signaling or its functional equivalent;
- 41 d. single-party service or its functional equivalent;
- 42 e. access to emergency services;
- 43 f. access to operator services;
- 44 g. access to interexchange service;
- 45 h. access to directory assistance;

1 i. toll limitation for qualifying low-income consumers.
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3 In addition, ETCs must provide Lifeline and LinkUp services to qualifying low-
4 income consumers¹, must offer toll limitation to Lifeline customers at the time
5 such consumers subscribe to Lifeline service² and may not collect a service
6 deposit in order to initiate Lifeline service, if the qualifying low-income consumer
7 voluntarily elects toll blocking from the carrier, where available³.

8 Q. HAS THE FCC ESTABLISHED REQUIREMENTS FOR CARRIERS SEEKING ETC
9 STATUS?

10 A. Yes, 47 C.F.R. § 54.202 the FCC established rules that apply to carriers seeking
11 ETC status in proceedings before the FCC pursuant to section 214(e)(6) of the
12 1996 Telecommunications Act. However, the FCC encouraged the state
13 commissions to at a minimum adopt similar requirements when designating ETC
14 status to carriers pursuant to section 214(e) (2).

15 **§ 54.202 Additional requirements for Commission designation of**
16 **eligible telecommunications carriers.**
17

18 (a) On or after the effective date of these rules, in order to be
19 designated an eligible telecommunications carrier under section 214(e)
20 (6), any common carrier in its application must:

21
22 (1) (A) commit to provide service throughout its proposed designated
23 service area to all customers making a reasonable request for service.
24 Each applicant shall certify that it will (1) provide service on a timely
25 basis to requesting customers within the applicant's service area where
26 the applicant's network already passes the potential customer's
27 premises; and (2) provide service within a reasonable period of time, if
28 the potential customer is within the applicant's licensed service area but
29 outside its existing network coverage, if service can be provided at
30 reasonable cost by (a) modifying or replacing the requesting customer's
31 equipment; (b) deploying a roof-mounted antenna or other equipment;
32 (c) adjusting the nearest cell tower; (d) adjusting network or customer
33 facilities; (e) reselling services from another carrier's facilities to

¹ 47 C.F.R. § 54.405 and 47 C.F.R. § 54.411(a)

² 47 C.F.R. § 54.401(3)

³ 47 C.F.R. § 54.401(4)

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provide service; or (f) employing, leasing or constructing an additional cell site, cell extender, repeater, or other similar equipment; and

(B) submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network on a wire center-by-wire center basis throughout its proposed designated service area. Each applicant shall demonstrate how signal quality, coverage or capacity will improve due to the receipt of high-cost support; the projected start date and completion date for each improvement and the estimated amount of investment for each project that is funded by high-cost support; the specific geographic areas where the improvements will be made; and the estimated population that will be served as a result of the improvements. If an applicant believes that service improvements in a particular wire center are not needed, it must explain its basis for this determination and demonstrate how funding will otherwise be used to further the provision of supported services in that area.

(2) demonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.

(3) demonstrate that it will satisfy applicable consumer protection and service quality standards. A commitment by wireless applicants to comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service will satisfy this requirement. Other commitments will be considered on a case-by-case basis.

(4) demonstrate that it offers a local usage plan comparable to the one offered by the incumbent LEC in the service areas for which it seeks designation.

(5) certify that the carrier acknowledges that the Commission may require it to provide equal access to long distance carriers in the event that no other eligible telecommunications carrier is providing equal access within the service area.

(b) Any common carrier that has been designated under section 214(e) (6) as an eligible telecommunications carrier or that has submitted its application for designation under section 214(e) (6) before the effective date of these rules must submit the information required by paragraph (a) of this section no later than October 1, 2006, as part of its annual reporting requirements under section 54.209.

(c) *Public Interest Standard.* Prior to designating an eligible telecommunications carrier pursuant to section 214(e) (6), the Commission determines that such designation is in the public interest. In doing so, the Commission shall consider the benefits of increased consumer choice, and the unique advantages and disadvantages of the

1 applicant's service offering. In instances where an eligible
2 telecommunications carrier applicant seeks designation below the study
3 area level of a rural telephone company, the Commission shall also
4 conduct a cream skimming analysis that compares the population
5 density of each wire center in which the eligible telecommunications
6 carrier applicant seeks designation against that of the wire centers in the
7 study area in which the eligible telecommunications carrier applicant
8 does not seek designation. In its creamskimming analysis, the
9 Commission shall consider other factors, such as disaggregation of
10 support pursuant to § 54.315 by the incumbent local exchange carrier.
11

12 (d) A common carrier seeking designation as an eligible
13 telecommunications carrier under section 214(e)(6) for any part of
14 tribal lands shall provide a copy of its petition to the affected tribal
15 government and tribal regulatory authority, as applicable, at the time it
16 files its petition with the Federal Communications Commission. In
17 addition, the Commission shall send the relevant public notice seeking
18 comment on any petition for designation as an eligible
19 telecommunications carrier on tribal lands, at the time it is released, to
20 the affected tribal government and tribal regulatory authority, as
21 applicable, by overnight express mail.
22

23 **Q. ARE STATE COMMISSIONS PRECLUDED FROM ESTABLISHING ADDITIONAL**
24 **REQUIREMENTS FOR ETCs?**

25 A. No. In fact the FCC specifically declined to mandate that state commissions
26 adhere to the FCC requirements in order to preserve the discretion of state
27 commissions to adopt additional requirements.

28 We decline to mandate that state commissions adopt our requirements
29 for ETC designations. Section 214(e) (2) of the Act gives states the
30 primary responsibility to designate ETCs and prescribes that all state
31 designation decisions must be consistent with the public interest,
32 convenience, and necessity. We believe that section 214(e)(2)
33 demonstrates Congress's intent that state commissions evaluate local
34 factual situations in ETC cases and exercise discretion in reaching their
35 conclusions regarding the public interest, convenience and necessity, as
36 long as such determinations are consistent with federal and other state
37 law. States that exercise jurisdiction over ETCs should apply these
38 requirements in a manner that is consistent with section 214(e) (2) of
39 the Act. Furthermore, state commissions, as the entities most familiar
40 with the service area for which ETC designation is sought, are
41 particularly well equipped to determine their own ETC eligibility
42 requirements. Because the guidelines we establish in this Report and
43 Order are not binding upon the states, we reject arguments suggesting
44 that such guidelines would restrict the lawful rights of states to make
45 ETC designations. We also find that federal guidelines are consistent

1 with the holding of United States Court of Appeals for the Fifth Circuit
2 that nothing in section 214(e) of the Act prohibits the states from
3 imposing their own eligibility requirements in addition to those
4 described in section 214(e)(1). Consistent with our adoption of
5 permissive federal guidelines for ETC designation, state commissions
6 will continue to maintain the flexibility to impose additional eligibility
7 requirements in state ETC proceedings, if they so choose.... (Paragraph
8 61, Report & Order FCC 05-46)
9

10 Q. HAS THE FCC ESTABLISHED ONGOING REPORTING REQUIREMENTS FOR
11 CARRIERS THAT IT DESIGNATES AS ETCS UNDER SECTION 214(E) (6) OF THE 1996
12 ACT?

13 A. Yes. On an annual basis carriers designated as ETCs under section 214(e)(6) are
14 required to submit;

15 (1) progress reports on the ETC's five-year service quality
16 improvement plan, including maps detailing progress towards
17 meeting its plan targets, an explanation of how much universal
18 service support was received and how the support was used to
19 improve signal quality, coverage, or capacity; and an explanation
20 regarding any network improvement targets that have not been
21 fulfilled. The information should be submitted at the wire center
22 level;

23 (2) detailed information on any outage lasting at least 30 minutes, for
24 any service area in which an ETC is designated for any facilities
25 it owns, operates, leases, or otherwise utilizes that potentially
26 affect at least ten percent of the end users served in a designated
27 service area, or that potentially affect a 911 special facility (as
28 defined in subsection (e) of section 4.5 of the *Outage Reporting*
29 *Order*). An outage is defined as a significant degradation in the
30 ability of an end user to establish and maintain a channel of
31 communications as a result of failure or degradation in the
32 performance of a communications provider's network.
33 Specifically, the ETC's annual report must include: (1) the date
34 and time of onset of the outage; (2) a brief description of the
35 outage and its resolution; (3) the particular services affected; (4)
36 the geographic areas affected by the outage; (5) steps taken to
37 prevent a similar situation in the future; and (6) the number of
38 customers affected:

39 (3) the number of requests for service from potential customers
40 within its service areas that were unfulfilled for the past year.
41 The ETC must also detail how it attempted to provide service to
42 those potential customers:

- 1 (4) the number of complaints per 1,000 handsets or lines;
- 2 (5) certification that the ETC is complying with applicable service
3 quality standards and consumer protection rules, e.g., the CTIA
4 Consumer Code for Wireless Service;
- 5 (6) certification that the ETC is able to function in emergency
6 situations;
- 7 (7) certification that the ETC is offering a local usage plan
8 comparable to that offered by the incumbent LEC in the relevant
9 service areas; and
- 10 (8) certification that the carrier acknowledges that the Commission
11 may require it to provide equal access to long distance carriers in
12 the event that no other eligible telecommunications carrier is
13 providing equal access within the service area.

14 **Q. DO STATE COMMISSIONS HAVE FLEXIBILITY IN ADOPTING ONGOING REPORTING**
15 **REQUIREMENTS FOR CARRIERS DESIGNATED AS ETCS UNDER SECTION 214(E)(2)?**

16 **A.** Yes. As is true for the initial certification, the FCC encourages state commissions
17 at a minimum to adopt the requirements that apply to carriers certified by the
18 FCC, but neither mandates or limits a state commission's authority with respect to
19 establishing ongoing reporting requirements.

20

21 ***IV. RESPONSE TO THE APPLICATION***

22 **Q. DOES THE COMPANY'S APPLICATION DEMONSTRATE THAT IT CAN PROVIDE THE**
23 **SUPPORTED SERVICES NECESSARY TO MEET THE ETC OBLIGATIONS?**

24 **A.** I accept that for purposes of federal high cost support the Company appears
25 capable of providing many of the supported services or a functional equivalent to
26 customers it serves. These services include:

- 27 a. voice grade access to the public switched telephone network;
28 b. local usage;
29 c. dual tone multi-frequency signaling or its functional equivalent;
30 d. single-party service or its functional equivalent;
31 e. access to emergency services;

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- f. access to operator services⁴;
- g. access to interexchange service;
- h. access to directory assistance;

The Company's testimony identifies two Lifeline service offerings that would be offered to Missouri customers. The first Lifeline service plan provides unlimited originating calls from the customer's home cell site to numbers within the ILEC exchange and incoming calls from the portion of the ILEC exchange covered by the Company's cell sites for \$6.95 per month plus ½ the normal activation fee of \$50.⁵ The testimony does not identify any equipment change fees, term commitments, early termination fees or other terms of service, such as a credit check, that may be a condition of service. Where the Company does not have a foot print that encompasses an incumbent's entire exchange or where EAS exists, the calling scope is not comparable to the basic local service offered by Missouri incumbent carriers, rural or nonrural.

The second plan offers what appears to be outbound calling from anywhere in the Company's ETC designated service area. The Application is unclear on whether inbound calling from all locations in the Company's ETC designated service area would be included. As in the first plan, vertical services are included. While vertical services may be desirable, they are not supported services and should not be considered in the comparison to ILEC service package available to low-income consumers.

⁴ The Company has committed to provide operator services if designated as an ETC.
⁵ The plan includes vertical features that are not supported services.

1 Q. IS APPENDIX K OF THE DIRECT TESTIMONY OF JAMES SIMON A FAIR COMPARISON
2 OF MO5'S LIFELINE RATES AS COMPARED TO THE ILECS' RATES?

3 A. No. The MO5 rates exclude the \$1.75 and approximate \$6.50 Subscriber Line
4 Charges. The ILEC rates shown do not reflect these discounts even though they
5 would be provide to lifeline customers served by any of the incumbents.

6 Q. ARE THE FEATURES SHOWN FOR MO5 IN APPENDIX K OF THE DIRECT TESTIMONY
7 OF JAMES SIMON USF SUPPORTED SERVICES?

8 A. No. Although they are services customers may value, they are not relevant in
9 comparing the supported service offerings of MO5 and the incumbent carriers.

10 Q. IN A PREVIOUS PROCEEDING BEFORE THE COMMISSION YOU RECOMMENDED
11 THAT A WIRELESS APPLICANT BE REQUIRED TO COMPLY WITH CERTAIN
12 STANDARDS EQUIVALENT TO WIRELINE SERVICE PROVIDERS. PLEASE IDENTIFY
13 AND DISCUSS THOSE STANDARDS.

14 A. The standards I recommend were designed to ensure that all the supported
15 services would be provided and to address customer protection issues.
16 Specifically, I asked the Commission to require that the applicant:

- 17 ➤ Provide specific details regarding the proposed lifeline offerings;
- 18
- 19 ➤ Demonstrate sufficient financial and technical resources to provide
- 20 adequate service;
- 21
- 22 ➤ Provide exchange-specific service area maps;
- 23
- 24 ➤ Provide information related to the terms and conditions of service;
- 25
- 26 ➤ Commit to provide sufficient information to the Commission for it
- 27 to fulfill its obligation in certifying that USF support would be
- 28 used for the intended purpose;
- 29
- 30 ➤ Adhere to minimum billing disclosures, service quality standards, a
- 31 formal complaint process and other customer relations procedures,
- 32 such as snap-back.

1 **Q. HAS THE COMPANY PROVIDED SUFFICIENT DETAIL REGARDING ITS PROPOSED**
2 **LIFELINE AND LINKUP OFFERINGS?**

3 A. No, the Company's application does not provided an adequate description of the
4 terms and conditions associated with the Lifeline and Link Up services it intends
5 to offer if it receives ETC status. One concern is that if the services are available
6 only for a limited time, basis upon which the Commission initially approved may
7 the applicants be susceptible to sufficient change. The Company should be
8 required not to increase the rate or adversely alter the service elements of a
9 minimum Lifeline offering without Commission approval, so that the new service
10 and rate continue to satisfy the Company's ETC obligation. I view this as a
11 significant safeguard for low-income consumers and a key in promoting the
12 public interest.

13 While buying a handset can be an expensive component of subscription, the
14 Federal universal service mechanism does not allow carriers to recover any cost
15 associated with the handset from the Fund. The Company should inform
16 prospective Lifeline customers of the price of the lowest cost handset available
17 while it retains the ability to inform a perspective Lifeline customer of other
18 available handsets.

19 **Q. DO YOU HAVE CONCERNS REGARDING THE APPLICANT'S FINANCIAL AND**
20 **TECHNICAL ABILITY TO SERVE?**

21 A. No. The Applicant has an established and significant presence in Missouri that
22 indicates a financial and technical ability to provide the required services.

23

1 Q. HAS THE COMPANY PROVIDED OR COMMITTED TO PROVIDE ON AN ONGOING
2 BASIS MAPS OF ITS SPECIFIC COVERAGE IN THE RELEVANT AREAS?

3 A. No. While the Application provides a map of the exchanges where the Company
4 seeks designation, it does not appear to give complete information on the areas the
5 Company will initially be unable to serve within the area for which it seeks ETC
6 status. The CTIA Consumer Code for Wireless Service proposes that maps be
7 provided of a carrier's general service area which is also inadequate. The
8 Company should be required to maintain detailed maps on file with the
9 Commission on an ongoing basis.

10 Q. SHOULD THE COMMISSION REQUIRE ONGOING SUBMISSION OF INFORMATION ON
11 SPECIFIC SERVICE OFFERINGS AND THE TERMS AND CONDITIONS OF SERVICE?

12 A. Yes. The CTIA Consumer Code for Wireless Service requires the Company to
13 disclose to customers service terms and conditions. The Company should also be
14 required to maintain illustrative customer agreements containing the terms of
15 service on file with the Commission on an ongoing basis so that the Commission
16 Staff and Public Counsel will have access to them.

17 Q. HAS THE COMPANY COMMITTED TO TERMS THAT WILL PROMOTE THE
18 UNIVERSAL AVAILABILITY OF SERVICE IN ITS TERRITORY?

19 A. It has in part. In its Application, the Company committed to serve to the extent
20 feasible through various methods and to act as carrier of last resort if necessary.
21 The Application outlines five methods for serving a customer that requests
22 service. However, it is unclear from the application the extent to which the
23 Company will be able to serve throughout the requested area without the use of
24 resale and the extent to which the Company needs to established resale

1 agreements to provide service in a timely manner. I believe it is not unreasonable
2 that the Company is required to submit an analysis of the need for resale in order
3 to serve currently served locations within 10 working days. I would not oppose
4 shortening this timeframe based on appropriate evidence provided by other parties
5 in this proceeding. Upon the review of the Company's analysis, the Commission
6 may need to require the Company to pursue resale agreements as a condition of
7 receiving and retaining ETC status.

8 **Q. DO YOU HAVE ADDITIONAL CONCERNS REGARDING THE COMPANY'S PRACTICES**
9 **THAT AFFECT THE UNIVERSAL AVAILABILITY OF SERVICE IN ITS TERRITORY?**

10 A. Yes. The Company does not disclose whether Lifeline customers or other
11 prospective customers will be subject to credit checks. The Company should be
12 required to provide service to all customers that do not have a past unpaid account
13 with the Company.

14 **Q. HAS THE COMPANY COMMITTED TO PROVIDE SUFFICIENT INFORMATION TO THE**
15 **COMMISSION, ON AN ONGOING BASIS, TO EVALUATE IF USE SUPPORT WOULD BE**
16 **USED ONLY FOR THE INTENDED PURPOSE?**

17 A. Yes. The Company agrees to provide the information required by the FCC for
18 carriers it certifies under Section 214(e) (6).

19 **Q. HAS THE COMPANY COMMITTED TO MINIMUM BILLING DISCLOSURES AND**
20 **SERVICE QUALITY STANDARDS, A FORMAL COMPLAINT PROCESS OR OTHER**
21 **CUSTOMER RELATIONS PROCEDURES, SUCH AS SNAP-BACK?**

22 A. The Company has committed to comply with the CTIA Consumer Code for
23 Wireless Service. The Consumer Code sets forth a list of information that will be
24 provided on a customer's bill as well as minimum quality of service standards.

1 The FCC requires carriers certified under section 214(e) (6) to adhere to the CTIA
2 standards. In addition, the Company should adhere to any state specific billing
3 disclosures, quality of service standards, a formal complaint process and other
4 customer relations procedures that are required by the Commission.

5 **Q. HAS THE COMPANY AGREED TO OFFER EQUAL ACCESS UNDER CERTAIN**
6 **CIRCUMSTANCES?**

7 A. Yes. The Company has indicated that it will offer equal access if no other eligible
8 telecommunications carrier is providing equal access within the service area.

9 **Q. HAS YOUR REVIEW OF THIS APPLICATION CAUSED OTHER CONCERNS THAT ARE**
10 **RELEVANT TO DESIGNATING CARRIERS AS ETC'S?**

11 A. Yes. The multi-company and partial exchange service areas for which the
12 Company seeks ETC status have unique impacts in Missouri due to the existence
13 and prevalence of expanded local calling routes in Missouri. One example is EAS
14 which is a mandatory one-way or two-way local calling plan that links
15 communities of interest. Mandatory expanded local calling services are supported
16 service with respect to incumbent carriers. Further, the Commission has long
17 recognized the public interest aspect of local calling between communities of
18 interest. The Company's Application does not specifically address expanded
19 local calling issues but based on the Company's description of its service offering,
20 I believe that, at least for some communities, the Company's "local" calling scope
21 will exclude expanded local calling points that landline customers can currently
22 call on a local basis. Examples are the exchanges served by Mark Twain Rural
23 Telephone Co. In the wireline environment, customers have local calling between
24 all 14 of the Mark Twain exchanges. All but two of these exchanges are in the

1 Company's proposed ETC area. Based on the description of the proposed service
2 offerings, it appears that the more basic "local" offerings will not allow calling
3 between many of these exchanges without roaming or toll charges. For Lifeline
4 customers that elect toll blocking, calling might be precluded all together.

5 There are a number of issues I believe the Commission should consider
6 with respect to this issue. First, although the Company may offer a larger toll free
7 calling area, in some exchanges the service will not be comparable in terms of the
8 communities that customers were previously able to call without roaming or toll
9 charges. Second, it does not appear that customers in exchanges excluded from
10 the Company's ETC area will be able to continue placing toll-free calls to
11 customers in exchanges that they previously reached on an exclusively toll-free
12 basis. Third, current dialing arrangements (7-digit local; 10-digit wireless) may
13 create significant customer confusion about why calls are not completed. Finally,
14 the Company will receive high cost support based on the incumbent's cost
15 although it will not offer comparable local service. The fact that the Company
16 may offer termination of calls to more exchanges does not count in the sense that
17 high cost support is not targeted to support toll usage. The Company should be
18 required to provide toll-free and roaming-free calling from the exchange
19 associated with a customers billing address to any terminating expanded local
20 calling points associated with that exchange. Further, if possible, the Company in
21 cooperation with other carriers serving the expanded local calling points should
22 be required to ensure that 7-digit dialed landline calls from an expanded local
23 originating exchange will be delivered to its customers on a toll-free, roaming-
24 free, minute free basis.

1 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

2 A. Yes, it does.