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April 30, 2003

FILED²

APR 30 2003

Missouri Public
Service Commission

HAND DELIVERY

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

**Re: In the Matter of the Application of Missouri RSA No. 7
Limited Partnership d/b/a Mid Missouri Cellular for
Designation as a Telecommunications Company Carrier
Eligible for Federal Universal Service Support Pursuant to §
254 of the Telecommunications Act of 1996;
Case No. TO-2003-288**

Dear Mr. Roberts:


Enclosed for filing in the above case is an original and eight copies of MOTION FOR REHEARING OR RECONSIDERATION.

If you have any questions concerning this filing, please contact Paul DeFord in our Kansas City office.

Thank you for your attention to this matter.

Sincerely,

LATHROP & GAGE L.C.

By: 
Susan C. Kliethermes
Paralegal

enclosures

cc: Office of Public Counsel
Office of General Counsel

JCDOCS 13721v1

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

FILED²

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Missouri Public
Service Commission

In the Matter of the Application of)
Missouri RSA No. 7 Limited Partnership)
d/b/a Mid-Missouri Cellular for)
Designation as a Telecommunications)
Carrier Eligible for Federal Universal)
Service Support Pursuant to Section 254)
of the Telecommunications Act of 1996.)

Case No. TO-2003-288

MOTION FOR REHEARING OR RECONSIDERATION

COMES NOW Missouri RSA No. 7 Limited Partnership d/b/a Mid-Missouri Cellular (MMC) and for its Motion for Rehearing or Reconsideration and states as follows:

1. On April 22, 2003 the Commission issued its "Notice of Dismissal and Closing Case" in the above-captioned matter. The Commission notes therein that in response to Staff's Motion to Dismiss, the Missouri RSA No. 7 Limited Partnership, d/b/a Mid-Missouri Cellular (MMC) filed its response stating that it "respectfully requests that the Commission expeditiously grant Staff's Motion to Dismiss so a proper application may be submitted to the [Federal Communications Commission]." The Commission then references its rule concerning voluntary dismissal of cases and concludes by indicating that the Commission will take notice of the dismissal of this case and will close the same. The Notice contains no effective date.

2. MMC did indeed file a response to Staff's Motion to Dismiss as referenced in the Notice, but did *not* voluntarily dismiss its case. MMC indicated that it did not oppose the Commission granting Staff's Motion to Dismiss. Staff's Motion to Dismiss was based on the assertion that the Commission lacked jurisdiction over the

services and facilities of MMC and thus lacked subject matter jurisdiction to grant MMC's request to be designated as an ETC.

3. Staff correctly states in its Motion that; "If a state commission lacks jurisdiction, the FCC requires ETC applications to certify that the petitioner complies with the ETC requirements of the Act and to certify that the petitioner is not subject to the jurisdiction of a state commission." *Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, Public Notice, FCC 97-419, (Dec 29, 1997). Absent an order granting Staff's Motion to Dismiss on its merits it would be difficult, if not impossible, for MMC to meet the requirement that it certify that it is not subject to the jurisdiction of a state commission.

4. Because there is a fundamental legal difference between granting Staff's Motion to Dismiss on its merits and MMC taking a voluntarily dismissal of its case, MMC requests that the Commission acknowledge that there has been no voluntarily dismissal and enter a ruling on the merits of Staff's Motion. MMC is concerned that absent such a ruling it may lack standing to seek designation of ETC status from the FCC.

WHEREFORE, MMC respectfully requests that the Commission acknowledge that MMC did not voluntarily dismiss its case and enter an order on the merits of Staff's Motion to Dismiss.

Respectfully submitted,

LATHROP & GAGE L. C.



Paul S. DeFord

#29509

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or e-mailed to all counsel of record this 30th day of April, 2003.

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