

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

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**

**U.S. CELLULAR'S RESPONSE TO  
REQUESTS FOR ADDITIONAL PROCEEDINGS**

USCOC of Greater Missouri, LLC d/b/a U.S. Cellular ("U.S. Cellular" or "Company") states the following:

1. On August 11, 2006, U.S. Cellular filed its two-year network improvement plan, in response to a March 21, 2006 Commission Order ("March 21 Order") directing U.S. Cellular to submit additional evidence regarding how it intends to use federal high-cost universal service support once designated by the Commission.

2. On August 14, 2006, the Commission directed each of the other parties to file a pleading indicating whether they wish to cross-examine U.S. Cellular's witness about the compliance filing, whether they wish to present additional evidence of their own, and whether they wish to present additional argument.

3. All of the other parties to this docket filed pleadings on or before September 1, 2006.

4. On September 5, the Commission established a September 21, 2006 prehearing conference, which was moved to September 22 at the request of U.S. Cellular.

5. U.S. Cellular welcomes an opportunity to appear before the Commission with its two-year plan witness (Nick Wright) to respond to Commission questions and cross-examination from parties regarding its two-year plan. However, U.S. Cellular strongly opposes any attempt to prolong this proceeding with additional rounds of testimony and an extended procedural

schedule. Rural Missouri consumers stand to benefit by construction of new infrastructure, and every day that passes without certification by the Commission marks the loss of federal funds that can never be recovered. Understandably, incumbent carriers benefit if a newcomer cannot accelerate new cell site construction in their service areas, however, that concern is not one that the Commission can properly consider.

6. Therefore, U.S. Cellular requests an on-the-record presentation as soon as possible. At that proceeding, the other parties may also present witnesses should they desire.

**I. The Commission has the information it needs to determine if U.S. Cellular has complied with the Commission's ETC rule.**

7. Several of the parties (Staff, AT&T, STCG, CenturyTel) have suggested that additional evidence needs to be submitted by U.S. Cellular to address whether all elements of the Commission's recently enacted ETC Rule concerning applications (4 CSR 240-3.570(2)) have been met. The ETC Rule was enacted several months after the hearing in this case.

8. However, with the exception of future commitments, all elements of an ETC application required by the Rule have already been submitted by U.S. Cellular and are contained in the record before the Commission. U.S. Cellular makes the required future commitments in the attached affidavit of Nick Wright.

9. The following outline shows where in the record the elements of the rule's requirements for ETC applications can be found.

2A(1) - Intended use of the high-cost support, including detailed descriptions of any construction plans with start and end dates, populations affected by construction plans, existing tower site locations for CMRS cell towers, and estimated budget amounts;

**U.S. Cellular's two-year plan filed Aug. 11, 2006.**

2A(2) - A two (2)-year plan demonstrating, with specificity, that high-cost universal service support shall only be used for the

provision, maintenance and upgrading of facilities and services for which the support is intended in the Missouri service area in which ETC designation was granted.

**U.S. Cellular's two-year plan filed Aug. 11, 2006.**

2A(3) - The two (2)-year plan shall include a demonstration that universal service support shall be used to improve coverage, service quality or capacity on a wire center-by-wire center basis throughout the Missouri service area for which the requesting carrier seeks ETC designation including:

A. A detailed map of coverage area before and after improvements and in the case of CMRS providers, a map identifying existing tower site locations for CMRS cell towers;

B. The specific geographic areas where improvements will be made;

C. The projected start date and completion date for each improvement;

D. The estimated amount of investment for each project that is funded by high-cost support;

E. The estimated population that will be served as a result of the improvements;

F. 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; and

G. A statement as to how the proposed plans would not otherwise occur absent the receipt of high-cost support and that such support will be used in addition to any expenses the ETC would normally incur;

**U.S. Cellular's two-year plan filed Aug. 11, 2006.**

2A(4) - A demonstration of the carrier's ability to remain functional in emergency situations, including a demonstration that the carrier 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;

**Kevin Lowell Direct Testimony, p. 5-9.**

2A(5) - A demonstration that the commission's grant of the applicant's request for ETC designation would be consistent with the public interest, convenience and necessity;

**Kevin Lowell Direct, p. 12., Nick Wright Direct p. 15-18, Don Wood Rebuttal p. 13 et seq.; U.S. Cellular Post-Hearing Brief at pp. 12-39.**

2A(6) - A commitment to advertise the availability of services and charges therefore using media of general distribution throughout the ETC service area;

**Nick Wright Direct, p. 5.**

2A(7) - A commitment to provide Lifeline and Link Up discounts consistent with 47 CFR 54.401 and 47 CFR 54.411. Each request for ETC designation shall include a commitment to publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service consistent with 47 CFR 54.405;

**Nick Wright Direct, p. 5-6.**

2A(8) - A statement that the carrier will satisfy consumer privacy protection standards as provided in 47 CFR 64 Subpart U and service quality standards as applicable;

**Nick Wright Affidavit (attached).**

2A(9) - A statement that the requesting carrier acknowledges it may be required to provide equal access pursuant to 4 CSR 240-32.100(3) and (4) if all other ETCs in that service area relinquish their designations pursuant to section 214(e) of the Telecommunications Act of 1996; and

**Kevin Lowell Direct, p. 4.**

2A(10) - A commitment to offer a local usage plan comparable to those offered by the incumbent local exchange carrier in the areas for which the carrier seeks designation. Such commitment shall include a commitment to provide Lifeline and Link Up discounts and Missouri Universal Service Fund (MoUSF) discounts pursuant to 4 CSR 240-31, if applicable, at rates, terms and conditions comparable to the Lifeline and Link Up offerings and MoUSF offerings of the incumbent local exchange carrier providing service in the ETC service area.

**Nick Wright Direct, p. 6-7.**

2(A)(B) - Each request for ETC designation by a CMRS provider shall include a commitment to abide by the consumer code for wireless service recognized by the Cellular Telecommunications and Internet Association (CTIA) at the time of the ETC designation request. As part of the initial application, a CMRS provider shall include a copy of the consumer code for wireless

service currently recognized by CTIA to which it commits to abide. Any CMRS provider designated as an ETC shall file with the commission, any change(s) to the consumer code for wireless service included with its application or any subsequent code approved under this section of the rule, within thirty (30) days of the change(s). The commission shall allow interested parties thirty (30) days to provide comment as to whether the CMRS provider should be required to commit to the proposed changes or should continue to abide by the consumer code for wireless service currently approved for that provider.

**Don Wood Surrebuttal, p. 32; a copy of the CTIA consumer code for wireless service is attached to Wright's affidavit.**

2(A)(C) - Each request for ETC designation shall include a plan outlining the method for handling unusual construction or installation charges.

**Nick Wright Direct, p. 7-8.**

10. The parties have already had an opportunity to cross-examine all of the above witnesses. Any cross-examination of Nick Wright regarding the two-year plan or the attached Affidavit can take place at the on-the-record presentation should the Commission deem it advisable to have one.

11. The remaining sections of the ETC Rule are ongoing compliance and reporting requirements for ETCs. These rules would not apply to U.S. Cellular until after it receives ETC status. The appropriate time for determining whether U.S. Cellular has complied with these rules is prior to the Commission determining whether U.S. Cellular should be recertified in the year following its designation. U.S. Cellular commits to complying with these rules after it is granted ETC status. See Wright Affidavit.

**II. The Commission should not permit a re-litigation of U.S. Cellular's application.**

12. Nearly 17 months after the filing of U.S. Cellular's Petition, and nearly 11 months after the evidentiary hearing in this case, AT&T, STCG and CenturyTel all advocate additional

delay in the form of more discovery, cross-examination and evidence. These companies essentially ask the Commission to ignore the extensive record already established and make findings that are not required by the ETC Rule.

13. For example, AT&T and the STCG want additional details regarding U.S. Cellular's estimated budget amounts. 4 CSR 3.570(2)(A)(1) provides that an application provide:

1. Intended use of the high-cost support, including detailed descriptions of any construction plans with start and end dates, populations affected by construction plans, existing tower site locations for CMRS cell towers, and estimated budget amounts;

U.S. Cellular complied with this part of the rule in its filing submitted on August 11, 2006. That filing included the required "estimated budget amounts" and explained with specificity how those estimates were achieved. There is no need for additional litigation regarding U.S. Cellular's budgeted amounts. No further discovery or presentation of evidence on this issue is necessary. There is also no requirement in the ETC Rule that an ETC's budget be state-specific, and U.S. Cellular's two-year plan does not refer to a state-specific budget. Accordingly, there is no merit – or relevance – to STCG's claim of "inconsistency" in this regard.

14. Similarly, without citing any rule, AT&T seeks details as to what "tracking and other accounting-related safeguards" are in place to ensure that funds earmarked for Missouri will only be spent in Missouri. Nothing in the Commission's Rule requires that information regarding accounting safeguards be presented. U.S. Cellular's August 11, 2006 filing fully complies with the Commission's requirement that an applicant "demonstrat[e], with specificity, that high-cost universal service support shall only be used for the provision, maintenance and upgrading of facilities and services for which the support is intended" in its Missouri ETC

service area. U.S. Cellular accomplishes this by showing that the amount it will spend on Missouri projects is more than the amount of USF support that it will receive by virtue of its Missouri ETC status. See Two-Year Network Improvement Plan at 2. Indeed, the Commission noted on page 2 of its March 21, 2006 Order that it “will expect U.S. Cellular’s budgeted expenditures to match expected revenues from the high cost support fund.” U.S. Cellular has met the Commission’s expectations regarding budgeted expenditures as well as the requirements of the ETC Rule. While STCG and AT&T may believe they will benefit from gaining access to additional information on U.S. Cellular’s regional budget and accounting systems, such information is not required under the Commission’s new rules. Accordingly, requests for additional discovery and testimony on this matter must be rejected.

15. AT&T and STCG indicate that they wish to perform analysis on the signal coverage of the additional cell sites listed in U.S. Cellular’s August 11 filing. The propagation analysis performed by the intervenors has been covered in depth in this proceeding. AT&T and STCG do not explain why they believe they need an opportunity to perform additional analysis. Neither intervenor argues that U.S. Cellular’s own propagation analysis is insufficient or inaccurate in any way. Nor did any witness at last year’s hearing assert that U.S. Cellular’s propagation analysis then in the record was insufficient. For example, CenturyTel witness Glenn Brown provided his own propagation analysis but did not question U.S. Cellular’s analysis or otherwise explain the necessity of a second study.<sup>1</sup> All relevant coverage information for

---

<sup>1</sup> At the hearing, Mr. Brown’s primary conclusion from his own analysis was that his propagation map showed “an awful lot of the white area.” Tr. 10/27 at p. 335, lines 3-4. He did not, however, state that his own maps were materially different from U.S. Cellular’s. Moreover, as U.S. Cellular witness Don Wood emphasized, such an observation is irrelevant for ETC designation purposes. Tr. 10/27 at p. 365, line 22 - p. 366, line 1 (“I think what Mr. Brown doesn’t like is that it doesn’t show all that white area filled in

purposes of the Commission's Order can be gleaned from U.S. Cellular's two-year plan and attachments. Accordingly, requests by intervenors for a new opportunity to create superfluous propagation analyses must be rejected.

16. The Commission has the information it needs to determine if the requirements of its ETC rule have been met and whether granting U.S. Cellular's application would be consistent with the public interest, convenience and necessity. The Commission has a complete record to review to ensure that U.S. Cellular's application is sufficient and that it can meet the requirements of an ETC. More important, the Commission has the ability in 2007 to assess whether U.S. Cellular is meeting its ETC commitments before recertifying the company for 2008. Section (4) of the Rule requires an ETC to submit by August 15 of each year an affidavit attesting that the high-cost support was used consistent with the Commission's rules and the Telecommunications Act. In addition, U.S. Cellular will supply documentation of support received and costs incurred. 4 CSR 240-3.570(4)(A). The ETC Rule also requires an annual meeting with Staff and OPC to review and discuss the two-year plan. 4 CSR 240-3.570(4)(B).

### **III. Conclusion**

17. The Commission should not delay granting U.S. Cellular's application by allowing the intervenors to continue to litigate issues that have already been adequately addressed in the record or are not required to be addressed at this time by the Commission's ETC Rule. Every day that the Commission delays approval of the ETC certification means another day of delay for federal high-cost support to improve and increase the availability of wireless service in rural Missouri.

---

overnight, all at once throughout. Well, of course, that's not the standard. It's not the standard for [ILECs] or they'd fail it.")



Respectfully submitted,

SONNENSCHN NATH & ROSENTHAL LLP

/s/ Karl Zobrist

Karl Zobrist MO Bar #28325

Roger W. Steiner MO Bar #39586

4520 Main Street, Suite 1100

Kansas City, Missouri 64111

Telephone: (816) 460-2400

Facsimile: (816) 531-7545

Email: kzobrist@sonnenschein.com

rsteiner@sonnenschein.com

David A. LaFuria

Steven M. Chernoff

Lukas, Nace, Gutierrez & Sachs, Chtd.

1650 Tysons Boulevard

McLean, Virginia 22102

Telephone: (703) 584-8678

Facsimile: (703) 584-8694

Email: dlafuria@fcclaw.com

schernoff@fcclaw.com

ATTORNEYS FOR USCOC OF GREATER  
MISSOURI, LLC. d/b/a U.S. CELLULAR

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document has been mailed electronically to all counsel of record this 21st day of September, 2006.

/s/ Karl Zobrist

ATTORNEYS FOR USCOC OF  
GREATER MISSOURI d/b/a  
U.S. CELLULAR

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the Matter of the Application of USCOC ) Case No. TO-2005-0384  
of Greater Missouri, LLC for Designation )  
as an Eligible Telecommunications Carrier )  
Pursuant To The Telecommunications Act )  
Of 1996 )

AFFIDAVIT OF NICK WRIGHT

I, Nick Wright, under penalty of perjury, affirm and state this 20<sup>th</sup> day of September, 2006:

1. My name is Nick Wright. I am employed by United States Cellular Corporation as Vice President - West Operations. My office is located at 4700 S. Garnett Road, Tulsa, Oklahoma.

2. U.S. Cellular will satisfy consumer privacy and protection standards as provided in 47 CFR 64 Subpart U and service quality standards as applicable.

3. U.S. Cellular will comply with all provisions of the ETC Rule (4 CSR 240-3.570) after it receives ETC status from the Commission.

4. I hereby affirm that the above information is true and accurate to the best of my knowledge, information and belief.

  
\_\_\_\_\_  
NICK WRIGHT

Subscribed and sworn to before me in the 20<sup>th</sup> day of September, 2006.

  
\_\_\_\_\_  
Notary Public

Comm. # 03005751

My Commission Expires: 4/09/07

---

# CTIA

## Consumer Code *for* Wireless Service

To provide consumers with information to help them make informed choices when selecting wireless service, to help ensure that consumers understand their wireless service and rate plans, and to continue to provide wireless service that meets consumers' needs, the CTIA and the wireless carriers that are signatories below have developed the following Consumer Code. The carriers that are signatories to this Code have voluntarily adopted the principles, disclosures, and practices here for wireless service provided to individual consumers.

### THE WIRELESS CARRIERS THAT ARE SIGNATORIES TO THIS CODE WILL:

#### ONE

#### DISCLOSE RATES AND TERMS OF SERVICE TO CONSUMERS

For each rate plan offered to new consumers, wireless carriers will make available to consumers in collateral or other disclosures at point of sale and on their web sites, at least the following information, as applicable: (a) the calling area for the plan; (b) the monthly access fee or base charge; (c) the number of airtime minutes included in the plan; (d) any nights and weekend minutes included in the plan or other differing charges for different time periods and the time periods when nights and weekend minutes or other charges apply; (e) the charges for excess or additional minutes; (f) per-minute long distance charges or whether long distance is included in other rates; (g) per-minute roaming or off-network charges; (h) whether any additional taxes, fees or surcharges apply; (i) the amount or range of any such fees or surcharges that are collected and retained by the carrier; (j) whether a fixed-term contract is required and its duration; (k) any activation or initiation fee; and (l) any early termination fee that applies and the trial period during which no early termination fee will apply.

#### TWO

#### MAKE AVAILABLE MAPS SHOWING WHERE SERVICE IS GENERALLY AVAILABLE

Wireless carriers will make available at point of sale and on their web sites maps depicting approximate voice service coverage applicable to each of their rate plans currently offered to consumers. To enable consumers to make comparisons among carriers, these maps will be generated using generally accepted methodologies and standards to depict the carrier's outdoor coverage. All such maps will contain an appropriate legend concerning limitations and/or variations in wireless coverage and map

---

usage, including any geographic limitations on the availability of any services included in the rate plan. Wireless carriers will periodically update such maps as necessary to keep them reasonably current. If necessary to show the extent of service coverage available to customers from carriers' roaming partners, carriers will request and incorporate coverage maps from roaming partners that are generated using similar industry-accepted criteria, or if such information is not available, incorporate publicly available information regarding roaming partners' coverage areas.

### T H R E E

#### **PROVIDE CONTRACT TERMS TO CUSTOMERS AND CONFIRM CHANGES IN SERVICE**

**W**hen a customer initiates service with a wireless carrier or agrees to a change in service whereby the customer is bound to a contract extension, the carrier will provide or confirm the material terms and conditions of service with the subscriber.

### F O U R

#### **ALLOW A TRIAL PERIOD FOR NEW SERVICE**

**W**hen a customer initiates service with a wireless carrier, the customer will be informed of and given a period of not less than 14 days to try out the service. The carrier will not impose an early termination fee if the customer cancels service within this period, provided that the customer complies with applicable return and/or exchange policies. Other charges, including airtime usage, may still apply.

### F I V E

#### **PROVIDE SPECIFIC DISCLOSURES IN ADVERTISING**

**I**n advertising of prices for wireless service or devices, wireless carriers will disclose material charges and conditions related to the advertised prices, including if applicable and to the extent the advertising medium reasonably allows: (a) activation or initiation fees; (b) monthly access fees or base charges; (c) any required contract term; (d) early termination fees; (e) the terms and conditions related to receiving a product or service for "free;" (f) the times of any peak and off-peak calling periods; (g) whether different or additional charges apply for calls outside of the carrier's network or outside of designated calling areas; (h) for any rate plan advertised as "nationwide," (or using similar terms), the carrier will have available substantiation for this claim; (i) whether prices or benefits apply only for a limited time or promotional period and, if so, any different fees or charges to be paid for the remainder of the contract term; (j) whether any additional taxes, fees or surcharges apply; and (k) the amount or range of any such fees or surcharges collected and retained by the carrier.

### S I X

#### **SEPARATELY IDENTIFY CARRIER CHARGES FROM TAXES ON BILLING STATEMENTS**

**O**n customers' bills, carriers will distinguish (a) monthly charges for service and features, and other charges collected and retained by the carrier, from (b) taxes, fees and other charges collected by the carrier and remitted to federal state or local governments. Carriers will not label cost recovery fees or charges as taxes.

---

S E V E N

**PROVIDE CUSTOMERS THE RIGHT TO TERMINATE SERVICE  
FOR CHANGES TO CONTRACT TERMS**

Carriers will not modify the material terms of their subscribers' contracts in a manner that is materially adverse to subscribers without providing a reasonable advance notice of a proposed modification and allowing subscribers a time period of not less than 14 days to cancel their contracts with no early termination fee.

E I G H T

**PROVIDE READY ACCESS TO CUSTOMER SERVICE**

Customers will be provided a toll-free telephone number to access a carrier's customer service during normal business hours. Customer service contact information will be provided to customers online and on billing statements. Each wireless carrier will provide information about how customers can contact the carrier in writing, by toll-free telephone number, via the Internet or otherwise with any inquiries or complaints, and this information will be included, at a minimum, on all billing statements, in written responses to customer inquiries and on carriers' web sites. Each carrier will also make such contact information available, upon request, to any customer calling the carrier's customer service departments.

N I N E

**PROMPTLY RESPOND TO CONSUMER INQUIRIES AND COMPLAINTS  
RECEIVED FROM GOVERNMENT AGENCIES**

Wireless carriers will respond in writing to state or federal administrative agencies within 30 days of receiving written consumer complaints from any such agency.

T E N

**ABIDE BY POLICIES FOR PROTECTION OF CUSTOMER PRIVACY**

Each wireless carrier will abide by a policy regarding the privacy of customer information in accordance with applicable federal and state laws, and will make available to the public its privacy policy concerning information collected online.