

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 19th day of October, 2006.

In the Matter of the Application of Missouri RSA No. 5)
Partnership for Designation as a Telecommunications)
Company Carrier Eligible for Federal Universal Service) **Case No. TO-2006-0172**
Support Pursuant to § 254 of the Telecommunications)
Act of 1996,)

ORDER DENYING APPLICATIONS FOR REHEARING

Issue Date: October 19, 2006

Effective Date: October 19, 2006

On September 21, 2006, the Commission issued a Report and Order in which it granted eligible telecommunications carrier (ETC) status for Universal Service Fund (USF) purposes to Missouri RSA No. 5 Limited Partnership (MO5). The Commission's order conditioned the grant upon continued compliance with the provisions of 4 CSR 240-3.570, MO5 not requiring a credit check for Lifeline customers, MO5 not using USF funds for income tax or depreciation expense, and MO5 filing a revised budget and build-out plan incorporating the revisions it set out in its testimony. In addition, the grant was conditioned upon MO5 providing a local calling scope for Lifeline and its "ILEC-equivalent" plans that is equal to or greater than the local calling scope of the incumbent local exchange carrier. The Commission's order was given an effective date of October 1, 2006.

On September 29, 2006, Spectra Communications Group, LLC, d/b/a CenturyTel, and CenturyTel of Missouri, LLC, jointly filed a timely application for rehearing.

On October 2, 2006, Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri, filed an application for rehearing. AT&T's application was not filed timely.

CenturyTel argues that the Commission failed to make sufficient findings of fact to support its decision and ignored the evidence provided by CenturyTel's witness, Mr. Brown. In addition, CenturyTel argues that the Commission's decision is unlawful because it set as a condition of granting the ETC status that MO5 must file a revised budget and build-out plan. The Commission disagrees with CenturyTel's arguments.

The Commission based its decision on the substantial and competent evidence as set out in its Report and Order. The Commission determined that after all the evidence was submitted, including the testimony of MO5's witnesses, the company had proven it was in compliance with the Commission's rules and the granting of ETC status was in the public interest. Although the Commission conditioned its grant of ETC status upon a future filing to be made by MO5, that filing was not "new evidence." Rather, the purpose of the filing was to condense the company's plans into a succinct filing that could be more easily relied upon in the annual ETC certification process. In addition, the Commission determined that as an enforcement mechanism, such a conditional grant was appropriate, so that MO5 is placed on notice that its ETC status may be revoked by the Commission.

The Commission also did not "wholly ignore" the testimony provided by the other parties. And, while the Commission may not have named specific witnesses with regard to specific issues in its decision, the Commission addressed the arguments of those witnesses in the Report and Order. For instance, the Commission addressed all of the public interest policy arguments in Mr. Brown's testimony and analyzed the public interest issue as Mr. Brown suggested. There was nothing in Mr. Brown's testimony, however, to

persuade the Commission to reject MO5's application. The Commission weighed the harm to the public against the benefits and, ultimately, made its public interest determination.

Section 386.500.1, RSMo 2000, provides that the Commission shall grant an application for rehearing if "in its judgment sufficient reason therefor be made to appear." In the judgment of the Commission, Spectra and CenturyTel have failed to establish sufficient reason to grant their Application for Rehearing. The Application for Rehearing shall be denied. In addition, the Application for Rehearing filed by AT&T is out-of-time and shall also be denied.

IT IS ORDERED THAT:

1. The Application for Rehearing filed by Spectra Communications Group, LLC, d/b/a CenturyTel, and CenturyTel of Missouri, LLC, is denied.
2. The Application for Rehearing filed by Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri, is denied.
3. This order shall become effective on October 19, 2006.
4. This case may be closed on October 20, 2006.

BY THE COMMISSION



Colleen M. Dale
Secretary

(S E A L)

Davis, Chm., Murray, Gaw, Clayton,
and Appling, CC., concur.

Dippell, Deputy Chief Regulatory Law Judge