

Exhibit No.:
Issue: *Application for Designation as an Eligible
Telecommunications Carrier*
Witness: *Kathryn G. Zentgraf*
Sponsoring Party: *Missouri RSA No. 5 Partnership*
Type of Exhibit: *Direct Testimony*
Case No.: *TO-2006-0172*
Date Testimony Prepared: *December 29, 2005*

MISSOURI RSA No. 5 PARTNERSHIP

DIRECT TESTIMONY

OF

KATHRYN G. ZENTGRAF

CASE NO. TO-2006-0172

December 29, 2005

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

DIRECT TESTIMONY

OF

KATHRYN G. ZENTGRAF

APPLICATION OF MISSOURI RSA NO. 5 PARTNERSHIP

CASE NO. TO-2006-0172

Q. Please state your name and business address.

A. Kathryn G. Zentgraf, 1633 Kuahale Street, Kapa'a, Hawaii 96746.

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

A. I am the owner of Zentgraf Consulting, which is a telecommunications consulting firm, specializing in the operation of small, rural wireless and wireline service providers.

Q. Please describe your educational background.

A. I received my baccalaureate degree in Management in 1998 from William Woods College in Fulton, Missouri.

Q. Please describe your work experience.

A. Prior to forming Zentgraf Consulting in 2003, from December of 1992 to May of 2003, I was the Chief Executive Officer, President and General Manager of Mid-Missouri Cellular in Sedalia, Missouri. Prior to that, from 1990 to 1992, I was the General Manager of Cellular One of Columbia, in Columbia, Missouri.

Q. What were your responsibilities while operating Mid-Missouri Cellular?

Direct Testimony of
Kathryn G. Zentgraf

1 A. I directed all company activities in sales, advertising, marketing, billing, customer
2 service, staff development, budgets, financials, purchasing, inventory, system design,
3 site acquisition and construction. I established and oversaw 3 retail stores. I also lead
4 regulatory and legislative efforts on all state, federal and FCC mandates/issues and
5 facilitated all contract negotiations, interconnection agreements, roaming contracts
6 and oversaw financing covenants. I oversaw the preparation and successful
7 prosecution of all company FCC filings and was directly involved in the preparation
8 of the initial Mid Missouri Cellular Eligible Telecommunications Company (“ETC
9 Application”). I directed company from start-up to maturity and reported directly to
10 the Board of Directors.

11 **Q. To what professional associations have you or your firm belonged?**

12 A. While operating Mid-Missouri Cellular, I was a member of the Missouri
13 Telecommunications Industry Association and served as First Vice Chairman. I was
14 also a Board Member of the Rural Cellular Association (“RCA”) involved directly
15 with facilitating Regulatory and Legislative efforts at the FCC and before Congress
16 with respect to issues that effected small wireless carriers. Since forming Zentgraf
17 Consulting, I have been involved in the formation of the Rural Telecommunications
18 Group, an association also focused on the needs of small, rural wireless carriers and
19 have served on its Board of Directors.

20 **Q. What is your familiarity with the rules and regulations of the Federal**
21 **Communications Commission (“FCC”)?**

22 A. I am quite familiar with the requirements of those rules and regulations as they
23 pertain to operation of wireless networks.

1 **Q. Are you familiar with the applicable statutory requirements, FCC rules and**
2 **regulations, and precedent as it relates to the designation of a wireless carrier as**
3 **an ETC?**

4 A. Yes I am.

5 **Q. What professional services have you provided to Missouri RSA No. 5**
6 **Partnership (“MO 5”)?**

7 A. I have been involved, either directly or in a supervisory capacity, in most facets of the
8 operation of the wireless business, including billing, interconnection, marketing and
9 other work as requested. I have also advised the Company with respect to seeking
10 designation as an ETC and have interfaced with legal and technical consultants with
11 respect to the preparation of the MO 5 ETC application.

12 **Q. What is the purpose of your testimony in this proceeding?**

13 A. My testimony will support and expand upon certain statements and factual
14 representations in MO 5’s Application For Designation As An Eligible
15 Telecommunications Carrier for Purposes of Receiving Federal Universal Service
16 Support Pursuant to Section 214(e)(2) Of The Telecommunications Act Of 1996
17 (“Application”) in this docket. I will set forth the current legal framework and
18 regulatory guidelines as they relate to ETC designations to assist the Missouri Public
19 Service Commission in its determination of this matter, and why I believe that MO 5
20 has demonstrated that the grant of ETC designation is in the public interest.

21 **Q. Please provide some background information concerning MO 5’s cellular service**
22 **in Missouri RSA 5.**

Direct Testimony of
Kathryn G. Zentgraf

1 A. Pursuant to its FCC cellular license (Call Sign KNKN487), MO 5 provides analog
2 and digital cellular service in Missouri RSA No. 5, Market No. 508B, which is
3 comprised of Linn, Macon, Shelby, Chariton and Randolph counties. MO 5 has also
4 claimed a small portion of Knox county, which was previously unserved area, as part
5 of its Missouri RSA No. 5 Cellular Geographic Service Area (“CGSA”).

6 The FCC licenses cellular systems on the basis of a Cellular Geographic
7 Service Area (“CGSA”) and not on a per site basis. The CGSA is determined by
8 applying FCC formulas to the operating parameters of a licensee’s cell sites to
9 determine the Service Area Boundary (“SAB”) for each cell site, and then using the
10 composite of the area encompassed within those SABs, as limited by the particular
11 market boundary, to define the CGSA. Accordingly, only cell site locations with
12 SABs that are used to form a part of the CGSA are listed on the FCC license.
13 Additional cell sites having SABs that are wholly contained within the CGSA are not
14 listed on the FCC license.

15 Within the area proposed for ETC designation in its Application, MO 5
16 operates 23 individual cellular base stations (cell sites) and provides service utilizing
17 analog (“AMPS”), time division multiple access (“TDMA”) digital technology. In
18 addition, MO 5 has overbuilt all of its cell sites with Global System for Mobile
19 communications (“GSM”) digital technology, plus it has one cell site that operates in
20 GSM only. The antenna towers associated with these base stations are owned
21 outright by MO 5.

1 **Q. Before discussing the communication services MO 5 provides in its proposed**
2 **ETC area, please comment on the “rural telephone company” service areas that**
3 **are included within MO 5’s proposed ETC area.**

4 A. Appendix A of the Application shows MO 5’s composite Cellular Geographic
5 Service Area (“CGSA”) as licensed by the FCC. MO 5’s proposed ETC designated
6 area is discussed at Section II of the Application, which references to Appendices C
7 and D. The map set forth as Appendix C of the Application shows the area in which
8 MO 5 seeks ETC designation. That area is superimposed over a map depicting the
9 various wire centers for local exchange carriers (“LECs”) providing traditional
10 wireline telephone service in this area. MO 5’s proposed ETC service area is
11 comprised of the wire centers listed in Appendix D of the Application. All of these
12 appendices were prepared by MO 5’s technical consultant, JDR Telecommunications,
13 and are appended as attachments to the direct testimony of Mr. Jonathan D. Reeves.

14 The term “rural telephone company” is defined in Section 153(37) of the
15 Communications Act, 47 U.S.C. § 153(37) as a local exchange carrier (“LEC”) that
16 meets that statutory provision’s requirements with respect to size or service area
17 criteria. LECs that do not qualify for designation as a “rural telephone company” are
18 designated as non-rural, even though they may, in fact be providing service to a rural
19 geographic area.

20 **Q. What is the significance of the rural versus non-rural telephone company**
21 **designation in the context of an application seeking designation for a competitive**
22 **ETC?**

23 A. Section 214(e)(2) of the Act states, in relevant part:

1 “Upon request and consistent with the public interest, convenience and
2 necessity, the State commission may, in the case of an area served by a
3 rural telephone company, and shall, in the case of all other areas,
4 designate more than one common carrier as an eligible
5 telecommunications carrier for a service area designated by the State
6 commission, so long as each additional requesting carrier meets the
7 requirements of paragraph (1). Before designating an additional
8 eligible telecommunications carrier for an area served by a rural
9 telephone company, the State commission shall find that the
10 designation is in the public interest.”

11 Thus, from the language of the statute, the Commission must designate
12 more than one carrier as an ETC in an area served by a non-rural telephone
13 company if the requesting carrier meets the requirements of Section 214(e)(1)
14 of the Act. With respect to areas served by a rural telephone company, the
15 Commission may make the ETC designation if it finds that the designation is
16 consistent with the public interest, convenience and necessity; and the
17 requirements of Section 214(e)(1) of the Act are met. The requirements of
18 Section 214(e)(1) of the Act are as follows:

19 (e) PROVISION OF UNIVERSAL SERVICE –

20 (1) ELIGIBLE TELECOMMUNICATIONS CARRIERS. – A
21 common carrier designated as an eligible telecommunications carrier
22 under paragraph (2) or (3) shall be eligible to receive universal service
23 support in accordance with section 254 and shall, throughout the

1 service area for which the designation is received –

2 (A) offer the services that are supported by Federal
3 universal service support mechanisms under section 254(c),
4 either using its own facilities or a combination of its own
5 facilities and resale of another carrier’s services (including
6 services offered by another eligible telecommunications
7 carrier); and

8 (B) advertise the availability of such services and the
9 charges therefore using media of general distribution.

10 **Q. What are the services that are supported by Federal universal service support**
11 **mechanisms under Section 254(c)?**

12 A. Pursuant to Section 54.101(a) of the FCC’s Rules, the following core services and
13 functions are to be offered by an ETC and should be supported by federal universal
14 support mechanisms:

15 a. Voice grade access to the public switched network; (the FCC concluded that
16 voice-grade access means the ability to make and receive phone calls, within a
17 bandwidth of approximately 2700 Hertz, within the 300 to 3000 Hertz
18 frequency range).^{1/}

19 b. Local usage; (to date, the FCC has not quantified any minimum amount of
20 local usage required to be included in a universal service offering, but has

^{1/} See Federal-State Board on Universal Service (First Report and Order in CC Docket No. 96-45) 12 FCC Rcd 8776, 8810-11 (1997) (“First Report and Order”).

Direct Testimony of
Kathryn G. Zentgraf

- 1 initiated a separate proceeding to address this issue.^{2/} Any minimum local
2 usage requirement established by the FCC as a result of this proceeding will
3 be applicable to all designated ETCs.)
- 4 c. Dual tone multi-frequency signaling or its functional equivalent; (DTMF is a
5 method of signaling that facilitates the transportation of call set-up and call
6 detail information). Consistent with the principles of competitive and
7 technological neutrality, the FCC permits carriers to provide signaling that is
8 functionally equivalent to DTMF in satisfaction of this service requirement.^{3/}
- 9 d. Single-party service or its functional equivalent; (“Single-party service”
10 means that only one party will be served by a subscriber loop or access line, in
11 contrast to a multi-party line.)^{4/}
- 12 e. Access to emergency services; (The ability to reach a public emergency
13 service provider through dialing “911” is a required universal service offering.
14 A wireless carrier such as MO 5 is not required to provide E911 services until
15 a local emergency provider has made arrangements for delivery of ALI and
16 ANI from carriers.)^{5/}
- 17 f. Access to operator services; (Access to operator services is defined as any

^{2/} See, Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 13 FCC Rcd 21252 (1998). As recently as March 17, 2005, the FCC has re-affirmed that while there is a local service requirement, it has set no minimum level of local usage as a pre-condition to ETC designation. See, Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, FCC-05-46 (Rel. March 17, 2005) (“*FCC Guidelines Report & Order*”) at ¶ 34.

^{3/} 47 C.F.R. § 54.101(a)(3).

^{4/} See, 12 FCC Rcd at 8810.

^{5/} See, 12 FCC Rcd at 8815-8817.

1 automatic or live assistance provided to a consumer to arrange for the billing
2 or completion, or both, of a telephone call.)

3 g. Access to interexchange service; (An ETC providing universal service must
4 offer consumers access to interexchange service to make or receive toll or
5 interexchange calls. Interexchange service access entails access to live or
6 automatic operator assistance for the placement and billing of telephone calls,
7 including collect calls, calling card calls, credit card calls, person-to-person
8 calls, and third party calls, as well as obtaining related information.)

9 h. Access to directory assistance; and

10 i. Toll limitation for qualifying low-income consumers. On December 30, 1997,
11 the FCC changed its definition of toll-limitation services in its Fourth Order
12 on Reconsideration of the Universal Service Report and Order, CC Docket
13 Nos. 96-45 et al. The FCC stated, “we define toll-limitation services as either
14 toll blocking or toll control and require telecommunications carriers to offer
15 only one, and not necessarily both, of those services at this time in order to be
16 designated as eligible telecommunications carriers.”

17 **Q. What LEC wire centers are included in the MO 5 proposed ETC service area**
18 **and which of those LECs are rural and non-rural telephone companies?**

19 A. The specific LEC wire centers identified in Application Appendix D as being
20 encompassed within the proposed ETC service area of ALLTEL Missouri, Inc.
21 (“ALLTEL”), Chariton Valley Telephone Company (“CVT”), Grand River Mutual
22 Telephone Company (“Grand River”), Mark Twain Telephone Company (“Mark
23 Twain”), Northeast Missouri Rural Telephone Company (“NEMO”); Spectra

1 Communications Group. LLC (“Spectra”) are rural telephone companies while the
2 wire centers set forth in paragraph 8 of the Application for Century Telephone of
3 Missouri LLC (Central) (“CenturyTel”) and Southwestern Bell Telephone Company
4 (“SBC”) are non-rural telephone companies.

5 **Q. How did MO 5 determine what areas to include within its proposed ETC service**
6 **area?**

7 A. MO 5 is a facilities-based wireless CMRS FCC licensee. To the greatest extent
8 possible, MO 5 tried to specify an ETC service area that corresponded to its FCC-
9 licensed CGSA. With respect to the areas served by the non-rural LECs, MO 5’s
10 proposed ETC service area corresponds with the MO 5 CGSA. However, where the
11 MO 5 CGSA boundary crosses the area served by a rural LEC, MO 5 modified its
12 proposed ETC service area to follow the LEC wire center boundaries. Application
13 Appendix C, shows the relationship between the MO 5 CGSA and the wire centers
14 that are included in the MO 5 proposed ETC service area.

15 **Q. Why did MO 5 follow the wire center boundaries in the areas served by rural**
16 **LECs as opposed to its FCC-licensed CGSA?**

17 A. The FCC has recently issued a pair of orders providing guidance to state commissions
18 in determining when the grant of an ETC designation will serve the public interest.
19 Those orders are *In the Matter of Federal-State Joint Board on Universal Service,*
20 *Virginia Cellular, LLC Application for Designation as an Eligible*
21 *Telecommunications Carrier In the Commonwealth of Virginia, Memorandum*
22 *Opinion and Order*, CC Docket No. 96-45, FCC 03-338 (rel. January 22, 2004),
23 (“*Virginia Cellular Order*”); and *In the Matter of Federal-State Joint Board on*

1 *Universal Service, Highland Cellular Petition for Designation as an Eligible*
2 *Telecommunications Carrier In the Commonwealth of Virginia, Memorandum*
3 *Opinion and Order*, CC Docket No. 96-45, FCC 04-37 (rel. April 12, 2004),
4 (“*Highland Cellular Order*”). In the *Highland Cellular Order* the FCC held that a
5 proposed ETC service area may not specify an area below the wire center level for a
6 rural LEC. Accordingly, where the MO 5 CGSA crossed a rural LEC wire center,
7 MO 5 modified its proposed ETC service area to include only entire wire centers.

8 In its *Virginia Cellular Order*, the FCC made it clear that where a wire center
9 lies partially beyond a wireless ETC’s FCC-licensed CGSA, it can meet its
10 obligations as an ETC by providing service in those areas through agreements with
11 other wireless carriers and MO 5 will do so with respect to the portions of wire
12 centers that lie beyond the boundaries of MO 5’s FCC-licensed service area.

13 **Q. How would MO 5’s USF support be determined?**

14 A. The level of support available to MO 5 is a function of the level of support available
15 to the LEC whose area is encompassed within MO 5’s ETC service area. Where an
16 MO 5 subscriber has a billing address in a particular LEC wire center, the amount of
17 support available to MO 5 is based upon the per line level of support received by that
18 LEC.

19 **Q. Does that result in a loss of USF for the underlying LEC?**

20 A. No, except in the limited case where an MO 5 subscriber disconnects its landline
21 phone and replaces it with an MO 5 phone. Otherwise, from a USF support
22 perspective, the MO 5 subscriber phone would look the same as an additional line for
23 the underlying LEC.

1 **Q. Doesn't that place a substantial burden on the USF?**

2 A. All telecommunications carriers contribute to the USF. That includes all wireless
3 carriers. While there is concern that the current practice could threaten the long-term
4 viability of the USF, to date the evidence suggests that wireless ETC designations
5 have not had an adverse impact on the USF. While wireless ETC designations have
6 been increasing over the last two years, the level of carrier contribution to the USF
7 (calculated as the percent of revenues needed to support the fund) has actually been
8 decreasing. Specifically, the contribution factor has declined from 9.5% (3rd quarter
9 2003), to 9.2% (4th quarter 2003) to 8.7% (1st quarter 2004) to 8.7%, the same factor
10 as for the 1st quarter of 2004, for the 2nd quarter of 2004. The 3rd and 4th quarter
11 2004 Universal Service Contribution Factors of 8.9% remained well below the
12 contribution factor for the prior year and is a further indication of the current fund
13 stability. The contribution factors for 2005 increased to 10.7% for the 1st quarter and
14 11.1% for the second quarter. *Proposed Second Quarter 2005 Universal Service*
15 *Contribution Factor*, DA 05-648 (CC Docket No. 96-45) (Rel. March 10, 2005).
16 While this does represent an increase in the contribution factor, it should be noted that
17 the increase is primarily attributable to increased program support costs for the
18 Schools and Libraries Program. Comparing the Program Support levels from the 4th
19 quarter 2004 to those projected for the 2nd quarter of 2005, the Schools and Libraries
20 Projected Program Support increased 36.33% as compared to an increase of 5.21% in
21 the High-Cost program. The contribution factors for the 3rd and 4th quarters of 2005
22 were again reduced to 10.2% for each quarter and are proposed to remain at the same
23 10.2% level for the 1st quarter of 2006. *Proposed First Quarter 2006 Universal*

1 *Service Contribution Factor*, DA 05-3203 (CC Docket No. 96-45) (Rel.
2 December 15, 2005)

3 **Q. While that may currently be the case, shouldn't this Commission be worried**
4 **about the global impact on the USF of designating additional wireless ETCs?**

5 A. No. The MO 5 Application is before this Commission under an established set of
6 rules and statutory requirements. Denial of MO 5's Application will not affect the
7 ability of wireless carriers in other states to draw upon the USF; it will only affect the
8 ability of the citizens of rural Missouri to benefit from those federal funds. The grant
9 of the MO 5 Application will, in and of itself, place an insignificant burden on the
10 USF. Accordingly, the Commission should avoid consideration of generalized policy
11 arguments relating to the wisdom of including wireless ETCs in the USF and the
12 present funding mechanisms. These concerns are presently being fully considered by
13 the Federal-State Joint Board on Universal Service, Congress and the FCC. The FCC
14 issued a Notice of Proposed Rulemaking to consider recommendations advanced by
15 the Federal-State Joint Board on Universal Service which could ultimately result in a
16 change in the methodology for determining the level of wireless support from the
17 USF. *In re Federal-State Joint Board on Universal Service*, FCC 04-127 (CC Docket
18 No. 96-45) (Rel. June 8, 2004).

19 **Q. Hasn't the FCC recently adopted new guidelines for its evaluation of ETC**
20 **applications?**

21 A. Yes. On March 17, 2005, the FCC issued *its FCC Guidelines Report & Order*
22 adopting certain changes in the manner in which the FCC will process ETC
23 applications on a going forward basis and setting forth those procedures as suggested

1 guidelines for state commissions to follow in processing ETC applications. In
2 adopting those changes, the FCC again made it clear that rule changes adopted as a
3 result of that or any future proceeding would affect the methodology for calculating
4 USF support for all ETCs, including MO 5 if the subject ETC designation is granted.
5 ETCs are not “grand-fathered” with respect to the method of determining their
6 ongoing level of support. The FCC has made this abundantly clear in its *Virginia*
7 *Cellular Order*. The *FCC Guidelines Report & Order* made no changes to the
8 method by which USF support for ETCs would be calculated.

9 **Q. So shouldn't the MO 5 ETC Application be evaluated under those new FCC**
10 **guidelines?**

11 A. The *FCC Guidelines Report & Order* largely codifies the individual FCC cases I have
12 been discussing in this testimony. The FCC has made it clear that it intends to
13 evaluate all ETC proposals that come before it under these criteria and urges the
14 various state commissions to use these processes as guidelines in evaluating ETC
15 applications that come before them. In adopting specific reporting requirements, the
16 FCC will make those requirements applicable not only to new applicants but also to
17 entities previously designated as ETCs by the FCC, after a reasonable transition
18 period.

19 However, the FCC has set forth its specific processes merely as a suggested
20 framework for states to use in evaluating ETC applications. The FCC recognizes that
21 in many instances the state commissions are in a better position to weigh the various
22 factors in making the public interest evaluations required by the Communications
23 Act. While the FCC has left room for the state commissions to establish processes

1 that may differ from those followed by the FCC, in doing so the FCC has made it
2 absolutely clear that any conditions imposed by the state commissions must be
3 “...consistent with federal law to ensure that supported services are offered in a
4 manner that protects consumers...” and that any state imposed requirements are
5 imposed “...only to the extent necessary to further universal service goals.” *FCC*
6 *Guidelines Report & Order* at ¶¶ 30.

7 **Q. Has the FCC yet evaluated any ETC applications under its new guidelines?**

8 A. Not to my knowledge. The FCC is not applying these guidelines to any ETC
9 applications that were pending at the time they were issued and has continued to
10 apply the applicable statutory and regulatory precedent to applications that were filed
11 before the guidelines were adopted. Accordingly, although the *FCC Guidelines*
12 *Report & Order* sets forth suggested guidelines, those guidelines have not yet been
13 applied or interpreted by the FCC.

14 I should also point out that the *FCC Guidelines Report & Order* has not yet
15 even become a final FCC action. Many parties on both sides of the various issues
16 have sought further review of those guidelines and have raised, including, but not
17 limited to whether some of the requirements found in the guidelines are consistent
18 with the controlling statutory provisions.

19 Because of this, I have set forth the current applicable precedents. To the
20 extent that the guidelines are codifications of those cases, this Commission has the
21 benefit of FCC interpretation of its requirements. I will also discuss how application
22 of the guidelines against the MO 5 ETC filing would bear on designation of MO 5 as
23 an ETC for informational purposes.

1 Finally, it is my understanding that the Commission is currently in the process
2 of a rulemaking to develop its own ETC designation requirements. MO 5
3 understands that it will ultimately be required to comply with all applicable
4 requirements once they are fully adopted and in place. However, since the
5 Commission has not yet adopted such rules, MO 5 assumes that it will be afforded a
6 reasonable time to comply with any requirements that are not in effect as of the date
7 of its ETC application filing, just as the FCC has allowed in adopting its guidelines.

8 **Q. With respect to this particular ETC designation, what would be the impact on**
9 **the USF?**

10 A. Based upon current subscriber counts and locations, the total USF support MO 5
11 expects to receive for its proposed service area is \$1,534,230 annually. That would
12 represent approximately .037% of the total high cost support received by carriers
13 from the USF. In sharp contrast, the LECs in the proposed ETC service area receive
14 \$39,439,356⁶ annually in high cost support from the USF for their service areas
15 throughout the state of Missouri placing more than twenty-five (25) times the burden
16 on the USF that designation of MO 5 as an ETC would place on the fund. In any
17 event, the FCC has held that a potential high cost support of 1.88% of the total level
18 of high-cost support, or approximately fifty (50) times the burden of the proposed
19 MO 5 designation, did not represent a significant increased burden on the USF. *See,*
20 *In the Matter of Federal-State Joint Board on Universal Service, NPCR, Inc. d/b/a*
21 *Nextel Partners Application for Designation as an Eligible Telecommunications*

^{6/} Annualizing USAC's projected first quarter 2006 filings with the FCC, the ILECS operating in MO 5's proposed ETC service area would receive the following in annual support for all of their wire centers in the state of Missouri: ALLTEL - \$2,550,288; CenturyTel Central - \$786,600; CVT - \$5,990,316; Grand River - \$4,837,104; Mark Twain - \$2,738,148; NEMO - \$3,907,380; SBC - \$3,155,304; and Spectra - \$15,474,216.

1 *Carrier In the states of Alabama, Florida, Georgia, New York, Pennsylvania,*
2 *Tennessee and the Commonwealth of Virginia, Memorandum Opinion and Order, CC*
3 Docket No. 96-45, DA 04-2667 (rel. August 25, 2004) (“*Nextel Order*”), at paragraph
4 21. Indeed, in the *FCC Guidelines Report & Order*, the FCC acknowledged that
5 “...given the size of the total high cost fund – approximately \$3.8 billion a year – it is
6 unlikely that any individual ETC designation would have a substantial impact on the
7 overall size of the fund.”^{7/}

8 **Q. Returning to the specific MO 5 proposal as it relates to the rural LEC wire**
9 **centers, how is the level of support determined for the rural LEC?**

10 A. The rural LEC support is based upon its cost of providing service. These costs are
11 either determined through a specific cost study or by following an average schedule
12 of costs. The LEC wire centers of an individual carrier throughout the state are
13 typically considered on an aggregated basis. Collectively, these wire centers are
14 referred to as that LEC’s study area. In the MO 5 Application, it has proposed
15 including the entire study area for CVT. However, in the case of ALLTEL, Grand
16 River, Mark Twain, NEMO, and Spectra, the MO 5 proposal does *not* encompass the
17 entire LEC study area.

18 **Q. What is the significance of the fact that only a portion of the ALLTEL, Grand**
19 **River, Mark Twain, NEMO and Spectra study areas are included in the**
20 **proposed MO 5 ETC service area?**

21 A. As I previously stated, the level of support received by these rural LECs in any given
22 wire center is based upon their cost to provide service throughout their respective
23 study areas. Where, as here, a competitive ETC seeks to only include a portion of the

^{7/} *FCC Guidelines Report & Order* at ¶ 53 (footnote omitted).

Direct Testimony of
Kathryn G. Zentgraf

1 LEC study area in its ETC service area, there is concern that a competitive ETC not
2 be providing service to only a lower-cost portion of the LEC study area while
3 receiving support based upon an overall higher average cost spread across the entire
4 LEC study area.

5 In its *Virginia Cellular Order* and *Highland Cellular Order*, the FCC
6 examined the relative population densities for the portions of the study areas for each
7 LEC that lie within the proposed CETC service area as compared to the population
8 densities of the entire LEC study area. The FCC held that where the population
9 densities of the entire ILEC study area are significantly lower than the population
10 density within the ETC service area, cream skimming has occurred. As detailed in
11 Mr. Reeves' testimony, that is *not* the case with respect to the service area
12 redefinitions proposed by MO 5 in its ETC Application.

13 **Q. Is population density the only consideration in these types of cases?**

14 A. While the FCC based its *Virginia Cellular Order* and *Highland Cellular Order*
15 decisions on this single factor, the FCC has previously considered this issue and
16 formulated a procedure to virtually eliminate this concern even where the population
17 density might not be as set forth herein.

18 “[A]s the Commission concluded in *Universal Service Order*, the
19 primary objective in retaining the rural telephone company’s study
20 area as the designated service area of a competitive ETC is to ensure
21 that competitors will not be able to target only the customers that are
22 the least expensive to serve and thus undercut the incumbent carrier’s
23 ability to provide service to the high-cost customers. Rural telephone

1 companies now have the option of disaggregating and targeting high-
2 cost support below the study area level so that support will be
3 distributed in a manner that ensures that the per-line level of support is
4 more closely associated with the cost of providing service. *Therefore,*
5 *any concern regarding “cream-skimming” of customers that may*
6 *arise in designating a service area that does not encompass the entire*
7 *study area of the rural telephone company has been substantially*
8 *eliminated.*^{8/}

9 ALLTEL, Grand River, NEMO and Spectra have already disaggregated their study
10 areas into distinct zones.

11 Finally, while there is clearly no cream-skimming issues involved in the
12 proposed redefinition, I note that the FCC has also recognized that the principle of
13 competitive neutrality controls in the designation of CETCs, holding that

14 “Universal service support mechanisms and rules should be
15 competitively neutral. In this context, competitive neutrality means
16 that universal service support mechanism rules neither unfairly
17 advantage nor disadvantage one provider over another and neither
18 unfairly favor nor disfavor one technology over another.”^{9/}

19 In the case of ALLTEL and Spectra, the various wire centers that comprise
20 their study areas (or disaggregated portion thereof) are scattered in non-contiguous

^{8/} *Petitions for Reconsideration of Western Wireless Corporation’s Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, 16 FCC Rcd 19144, 19149 (2001) (emphasis added, footnotes omitted).

^{9/} Report and Order, CC Docket No. 96-45, FCC 97-157 (May 8, 1997) (¶ 47).

1 geographic clusters throughout the state. In cases such as MO 5's, which is a
2 Missouri-only regional CMRS carrier, the situation where the ILEC study area is
3 scattered statewide warrants additional consideration. A CMRS ETC cannot
4 effectively provide service to geographic areas far removed from its FCC-licensed
5 service area. Accordingly, where, as here, the study area is comprised of numerous
6 non-contiguous regions scattered throughout an expansive geographic area, the
7 Commission should not apply a standard that would allow only one class of CMRS
8 licensee (large nationwide licensees) to qualify for ETC status by being the only
9 carriers that can cover an entire LEC study area.

10 Since no cream-skimming would result, MO 5 requests that this Commission
11 redefine the ALLTEL, Grand River, Mark Twain, NEMO, and Spectra service areas
12 to allow MO 5 to be designated as a competitive ETC only in the specified portions of
13 those study area.

14 **Q. Since ALLTEL, Grand River, Mark Twain, NEMO, and Spectra apparently**
15 **prepare all of their cost analysis based upon several wire centers, wouldn't this**
16 **re-definition result in increased costs and administrative burden for those**
17 **LECs?**

18 A. No. It is important to note that MO 5 is *not* seeking to redefine the *study* area for any
19 rural LEC. Rather, MO 5 is seeking only to redefine the LEC *service* areas for
20 purposes of designating a competitive ETC ("CETC"). As the FCC fully explained in
21 the *Virginia Cellular Order*, the proposed *service* area redefinition would have no
22 impact on the rural LEC reporting or administrative obligations. Specifically, the
23 FCC found that redefining the rural telephone company *service* areas would not

1 require rural telephone companies to determine their costs on any basis other than the
2 *study* area level. The redefinition, therefore, only enables MO 5, as an ETC, to serve
3 an area that is smaller than the entire LEC study area. Accordingly, MO 5
4 respectfully requests the redefinition of the ALLTEL, Grand River, Mark Twain,
5 NEMO, and Spectra *service* area, but not *study* area, to include only those wire
6 centers identified in Appendix D of the Application.

7 **Q. Does MO 5 offer ubiquitous service throughout its proposed ETC service area?**

8 A. The MO 5 network offers analog service throughout most of its market and TDMA
9 digital service throughout much of its market. Recently, MO 5, in response to
10 decisions by the major nationwide carriers to abandon the TDMA digital technology,
11 has found it necessary to migrate its network to GSM. MO 5 has been able to overlay
12 GSM at all of its cell sites, plus an additional GSM site, that provide service to the
13 largest population centers and major traffic arteries within its FCC-licensed service
14 area. However, there are areas within the market where the quality of primarily GSM
15 digital services could be enhanced. Application Appendix E, identifies the areas
16 where GSM coverage would benefit from coverage enhancement. These areas
17 include some of the rural-most portions of the market. Application Appendix H
18 depicts the areas where GSM coverage would be available by the proposed additional
19 GSM sites testified to by Mr. Simon as representing MO 5's proposed use of USF
20 funds to enhance MO 5's network coverage over the next five years, to the existing
21 MO 5 GSM sites.

1 **Q. Does the existence of “dead spots” in the proposed ETC area preclude MO 5**
2 **from satisfying its commitment to provide the core services set forth in FCC**
3 **Rule 54.101(a)?**

4 A. No, it does not. Any carrier or operator that provides CMRS is virtually certain to
5 have “dead spots” somewhere in the geographic area in which it provides service.
6 Indeed, with respect to cellular service, the FCC’s Rules (47 C.F.R. § 22.99)
7 expressly acknowledge the existence of “dead spots,” which are defined as “small
8 areas within a service area where the field strength is lower than the minimum level
9 for reliable service.” Acknowledging the prevalence of “dead spots,” the very same
10 rule states that “[s]ervice within dead spots is presumed.” Moreover, the FCC has
11 never required an ETC applicant to demonstrate an ability to provide ubiquitous
12 coverage in the geographic area for which ETC designation was sought. To require a
13 prospective ETC to demonstrate that it can provide the supported services before it
14 receives the ETC designation effectively prohibits these aspiring entrants from
15 providing service. In many cases, it is the availability of high-cost support that allows
16 rural carriers to extend their networks into high cost areas.

17 This is consistent with the way LEC service is presently deployed. LEC
18 service is available throughout its ETC service area only where there is a phone jack.
19 Once the subscriber moves out of reach of his phone’s cable, the subscriber is
20 essentially in a LEC “dead spot”. That is not to say that the LEC is not providing
21 quality service. Rather, it merely highlights that any type of communications service,
22 wired or wireless, is subject to areas of no service.

1 MO 5 is committed to extending its existing cellular network into the remote
2 and high-cost regions of its proposed ETC area. The high-cost support that MO 5
3 will receive once its Application is granted will allow it to fulfill this commitment.

4 **Q. Continuing with that analogy to LEC service, doesn't the LEC ETC have to**
5 **provide ubiquitous service throughout its designated service area as a carrier of**
6 **last resort?**

7 A. The LEC ETC has an obligation to provide service as a carrier of last resort.
8 However, that is not to say that the LEC has to build lines and have phone jacks
9 "standing by" in every corner of its market. LECs are continuously expanding their
10 networks to extend their service to new areas (such as newly constructed retail and
11 residential areas) as the need arises. LECs use their USF support to meet their
12 ongoing construction and operational costs. The very fact that LECs continue to
13 construct new lines year after year is indicative that even LEC ETCs are not
14 providing ubiquitous service throughout their ETC service areas at the time of ETC
15 designation and are continuously working to fill in their "dead spots".

16 **Q. What steps is MO 5 willing to undertake to provide service to a potential**
17 **customer?**

18 A. Mr. Simon has testified as to the precise steps MO 5 would take to provide service to
19 a potential customer. These steps comport with the requirements identified by the
20 FCC in the *Virginia Cellular Order*.

21 **Q. Aside from the issues and topics already discussed in your testimony, what other**
22 **matters should the Commission consider when it undertakes the public interest**
23 **analysis required by Section 214(e)(2) of the Act?**

Direct Testimony of
Kathryn G. Zentgraf

1 A. In accordance with controlling precedent, the Commission should consider the effects
2 on competition and consumer welfare resulting from a grant of MO 5's Application.
3 The FCC and many state public utility commissions have recognized that designation
4 of qualified ETCs promotes marketplace competition, which enhances consumer
5 welfare by increasing customer choice, and by promoting innovative services and
6 new technologies. Designating MO 5 as an ETC will make it easier for customers in
7 rural Missouri to choose telecommunications service based on pricing, service
8 quality, customer service and service availability. In addition, this designation will
9 facilitate universal service in MO 5's proposed ETC area by creating incentives to
10 ensure that quality services are available at just, reasonable and affordable rates.

11 At the same time, the likelihood that consumers in MO 5's proposed ETC area
12 will be harmed by a grant of MO 5's Application is negligible or non-existent. The
13 strict public interest requirement with respect to areas served by a rural telephone
14 company has been interpreted by the FCC as an expression of Congressional concern
15 that consumers in rural areas continue to be adequately served if an ILEC exercises its
16 right to relinquish ETC status under Section 214(e)(4) of the Act. Because MO 5 is
17 committed to and capable of providing the core services set forth in FCC Rule
18 54.101(a) using its own facilities, there is no reason to anticipate that consumers in
19 the proposed ETC area will be inadequately served if one or more ILECs relinquish
20 their ETC designation. Additionally, MO 5 has expressly committed to undertake
21 carrier of last resort obligations in the event that a LEC within MO 5's ETC
22 designated service area were to seek to drop its designation as an ETC with carrier of
23 last resort obligations.

1 **Q. Are there any other CMRS carriers licensed to provide service in the same area?**

2 A. Yes. In addition to the two cellular licenses previously discussed, the FCC has issued
3 six Personal Communications Service (“PCS”) licenses throughout the United States.
4 While the PCS licenses are issued on a Major Trading Area and Basic Trading Area
5 basis (which does not match the MSA/RSA licensing scheme used for cellular
6 licenses), just as with MSAs and RSAs, the BTAs combine to cover the entire
7 country.

8 **Q. Since you have testified that there are other CMRS licenses for the same**
9 **geographic area, how can the Commission find that the grant of ETC status**
10 **would increase competition or otherwise be in the public interest where, as here,**
11 **the ETC applicant is already providing service?**

12 A. The FCC has addressed this very issue. In the *Nextel Order*, the FCC’s Wireline
13 Competition Bureau considered these very arguments that had been advanced against
14 granting ETC designation and found them unpersuasive. The FCC stated:

15 “Other commenters argue that the Commission should not designate
16 Nextel as an ETC because such designation will not increase
17 competition. They argue that Nextel is not a new entrant in the various
18 markets and other CMRS operators are currently offering service in
19 the designated service areas. [footnote omitted] We disagree. Quality
20 service available at just, reasonable, and affordable rates is a
21 fundamental principle of the Commission’s universal service policies.
22 [footnote omitted] Although Nextel and other CMRS operators may
23 already offer service in the subject markets, designating Nextel as an

1 ETC will further the Commission’s universal service goals by enabling
2 Nextel to better expand and improve its network to serve a greater
3 population and increase competitive choice for customers within the
4 study areas of its ETC designation. (*Nextel Order* at ¶20).”

5 In the Nextel case, the FCC considered specific showings, comparable to
6 those made by MO 5 here, and found that grant of the requested ETC designation
7 would serve the public interest. Specifically, the FCC looked at the proposed
8 network enhancement and service offerings and the expansion into the more rural
9 portions of the market, coupled with the much larger local calling area being offered
10 by the CMRS carrier and the benefits of mobility, especially in the context of
11 “...access to emergency services that can mitigate the unique risks of geographic
12 isolation associated with living in rural communities.” (*Nextel Order* at ¶ 18). The
13 grant of MO 5’s ETC application would be wholly consistent with FCC precedent
14 which has repeatedly found that the types of showings made by MO 5 in its
15 Application and in Mr. Simon’s testimony, more than sufficient to satisfy the public
16 interest requirement of the applicable statutory provisions.

17 **Q. Returning now to the new FCC guidelines, how would the MO 5 application be**
18 **evaluated under these FCC guidelines?**

19 A. The MO 5 proposal has been developed in accordance with the established FCC
20 precedent. Inasmuch as the *FCC Guidelines Report & Order* is largely a codification
21 of those orders, following those guidelines would result in the designation of MO 5 as
22 an ETC. The *FCC Guidelines Report & Order* does add some additional suggested
23 analysis to be performed on a “per wire center” basis. MO 5 has included such

Direct Testimony of
Kathryn G. Zentgraf

1 information in its filing and testimony. Taken as whole, the guidelines set forth in
2 *FCC Guidelines Report & Order* are intended to enable a state commission to be
3 satisfied that the applicant, if designated as an ETC, would use the USF support it
4 receives in a manner consistent with the Act and the applicable FCC rules and
5 regulations and for the benefit of the citizens residing in the area from which the
6 support is drawn. MO 5 has made a detailed showing as to how it would use USF
7 support to enhance service throughout its proposed ETC service area. Accordingly,
8 designation of MO 5 as an ETC would be consistent with the Act and an analysis
9 based upon the *FCC Guidelines Report & Order* would lead to that determination.

10 **Q. Does that conclude your testimony?**

11 A. Yes, it does.

STATE OF MISSOURI

MISSOURI RSA NO. 5 PARTNERSHIP)
Application for Designation as an)
Eligible Telecommunications Carrier for)
Purposes of Receiving Federal Universal) Case No. TO-2006-0172
Service Support Pursuant to Section)
214(e)(2) of the Telecommunications Act)
of 1996.)

AFFIDAVIT OF KATHRYN G. ZENTGRAF

COUNTY OF _____)
) ss.
STATE OF MISSOURI)

Kathryn G. Zentgraf, of lawful age, on her oath states: that she has participated in the preparation of the foregoing Direct Testimony in question and answer form, consisting of _____ pages of testimony to be presented in the above case; that the answers in the foregoing Direct Testimony were given by her; that she has knowledge of the matters set forth in such answers; and that such matters are true and correct to the best of her knowledge and belief.

Kathryn G. Zentgraf

Subscribed and sworn to before me this _____ day of December, 2005.

Notary Public

My Commission expires: