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Issue: ETC Designation  
Witness: Stanley Johnson  
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Case No.: CO-2006-0464  
Date Testimony Prepared:  
March 2, 2007

BEFORE THE PUBLIC SERVICE COMMISSION  
STATE OF MISSOURI

In the matter of Petition of VCI	)	
Company for Designation as an Eligible	)	Case No. CO-2006-0464
Telecommunications Carrier	)	

**SURREBUTTAL TESTIMONY  
OF  
STANLEY JOHNSON  
ON BEHALF OF VCI COMPANY**

**MARCH 2, 2007**

BEFORE THE PUBLIC SERVICE COMMISSION  
STATE OF MISSOURI

In the matter of Petition of VCI  
Company for Designation as an Eligible  
Telecommunications Carrier

)  
)  
)

Case No. CO-2006-0464

AFFIDAVIT OF STANLEY JOHNSON

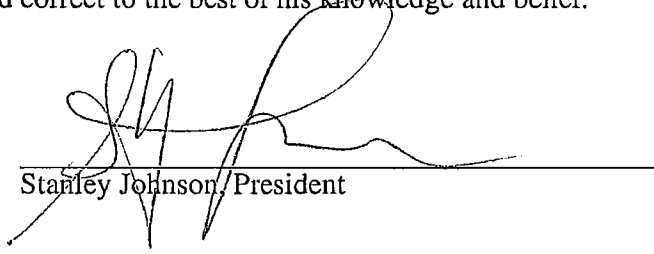
STATE OF WASHINGTON )

COUNTY OF PIERCE )

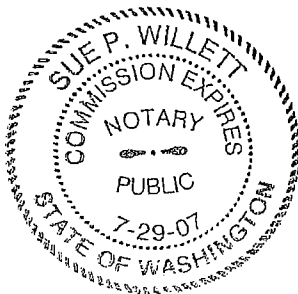
ss. Lakewood

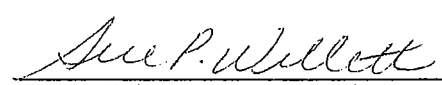
Stanley Johnson, of lawful age, on his oath states:

1. that he has participated in the preparation of the foregoing Surrebuttal Testimony in question and answer form;
2. that the answers in the foregoing Surrebuttal Testimony were given by him;
3. that he has knowledge of the matters set forth in such answers; and
4. that such matters are true and correct to the best of his knowledge and belief.

  
Stanley Johnson, President

Subscribed and sworn to before me this 28th day of February, 2007.



  
Sue P. Willett, Notary Public in and for the State of  
Washington, residing at Pierce County.

My Commission expires: 7-29-07

1       **I.       INTRODUCTION AND BACKGROUND**

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

3       A.     My name is Stanley Johnson. I am President of VCI Company ("VCI" or  
4       "Company"). My business address is 2228 S. 78<sup>th</sup> Street, Tacoma, Washington  
5       98409-9050.

6       Q.     ARE YOU THE SAME PERSON WHO FILED DIRECT TESTIMONY IN  
7       THIS CASE?

8       A.     Yes.

9       Q.     HAVE YOU REVIEWED THE REBUTTAL TESTIMONY OF WALT CECIL  
10       ON BEHALF OF THE TELECOMMUNICATIONS DEPARTMENT STAFF  
11       OF THE MISSOURI PUBLIC SERVICE COMMISSION AND JAMES E.  
12       STIDHAM, JR. ON BEHALF OF SOUTHWESTERN BELL TELEPHONE, L.P.  
13       D.B.A. AT&T MISSOURI IN THIS PROCEEDING?

14       A.     Yes, I have.

15       Q.     HOW WILL YOU REFER TO THE REBUTTAL TESTIMONIES IN YOUR  
16       INSTANT SURREBUTTAL?

17       A.     I will refer to them as Cecil Rebuttal (on behalf of Commission Staff) and  
18       Stidham Rebuttal (on behalf of AT&T Missouri).

19       Q.     WHAT GENERAL CONCLUSIONS WERE REACHED BY THE REBUTTAL  
20       WITNESSES?

21       A.     In the Cecil Rebuttal, Staff recommended approval of VCI's application subject to  
22       the conditions that 1) VCI commit to all applicable provisions of 4 CSR 240-  
23       3.570(3) and 2) that its designation be only for low income support.

24       In the Stidham Rebuttal, AT&T Missouri submitted that VCI has failed to comply  
25       with certain Commission requirements for ETC designation, specifically the  
26       Commission rules regarding the extension of networks and plans for handling  
27       unusual construction charges. The Stidham rebuttal also alleges 1) VCI's and  
28

1 AT&T's local exchange usage plans are not comparable; 2) VCI will not pass  
2 through the full amount of Lifeline support to the low-income customer; 3) VCI  
3 has improperly identified the subscriber line charge; and 4) VCI has not  
4 demonstrated that granting of ETC designation is in the public interest,  
5 convenience and necessity.

6 Q. PLEASE SUMMARIZE VCI'S MAIN POINTS IN THIS SURREBUTTAL  
7 TESTIMONY.

8 A. As discussed in detail below, VCI testifies that the Commission should approve  
9 VCI's application for designation as an ETC in Missouri because:

- 10 • VCI commits to compliance with all applicable provisions of 4 CSR 240-  
11 3.570 and concurs in Staff's recommendations that VCI's designation be  
for low-income support.
- 12 • VCI offers a local usage plan that is comparable to the ILEC's in service  
coverage area and terms and conditions and its rates are acceptable to  
13 Staff.
- 14 • VCI has properly identified the subscriber line charge applicable to  
Missouri and calculated its Lifeline rate to include all applicable state and  
federal discounts, which will be passed through to Missouri consumers.
- 15 • VCI's designation as an ETC is in the public interest, convenience and  
necessity.

16 Q. DOES VCI COMMIT TO COMPLIANCE WITH ALL APPLICABLE  
17 PROVISIONS OF 4 CSR 240-3.570?

18 A. Yes. In the Cecil Rebuttal testimony, Staff points out that VCI already has  
19 committed to compliance with the following Commission rules for ETC  
20 designation<sup>1</sup>:

21 4 CSR 240-3.570 (2)(A)6

A commitment to advertise

22 4 CSR 240-3.570(2)(A)7

A commitment to provide lifeline and link-  
up discounts

23 4 CSR 240-3.570(2)(A)8,

A statement that VCI will satisfy consumer  
privacy protection standards

24 4 CSR 240-573(3)(C)(1)(A)-(I)

Required service features

25  
26  
27 <sup>1</sup> Cecil Rebuttal, pp. 5-6.

1 In addition, VCI hereby commits to compliance with the following requirements  
2 of 4 CSR 240-3.570 listed as applicable by Staff in the Cecil Rebuttal:<sup>2</sup>

- 3 • As indicated in VCI's application at para. 28, VCI offers a local usage  
4 plan with unlimited calling within the customer's local calling area for a  
5 flat monthly fee, which is comparable to the one offered by AT&T  
6 Missouri in the service area for which it seeks designation. Staff has  
7 determined VCI's rates and charges to be acceptable in the Cecil Rebuttal  
8 at pp. 6-7. (4 CSR 240-3.570(2)(A)(10).
- 9 • Through its experience providing service in states other than Missouri,  
10 VCI has developed an easily interpreted customer bill in compliance with  
11 federal billing standards and commits to incorporation of any additional  
12 Missouri state billing requirements (4 CSR 240-3.570(3)(A).
- 13 • VCI currently provides customer service contact information on its web  
14 site, [www.vcicompany.com](http://www.vcicompany.com), and on its billing statements. (4 CSR 240-  
15 3.570(3)(B).
- 16 • VCI commits to maintaining customer complaint records as required by 4  
17 CSR 240-3.570(3)(E).
- 18 • VCI commits to notifying the Commission of changes in company  
19 designated contacts as required by 4 CSR 240-3.570(3)(F).

20 Q. DOES VCI CONCUR IN STAFF'S RECOMMENDATION THAT VCI'S  
21 DESIGNATION BE FOR LOW INCOME SUPPORT AND THAT THE  
22 COMPANY BE REQUIRED TO SEEK FURTHER ETC DESIGNATION  
23 FROM THE COMMISSION SHOULD IT SEEK TO RECEIVE HIGH COST  
24 SUPPORT?

25 A. VCI concurs in Staff's recommendation.

26 Q. SHOULD VCI BE REQUIRED TO COMPLY WITH COMMISSION RULES 4  
27 CSR 240-3.570(3)(C)(3), REGARDING EXTENSION OF NETWORKS, AND 4  
28 CSR 240-3.570(2)(C), REGARDING PLANS OUTLINING METHODS FOR  
UNUSUAL CONSTRUCTION CHARGES?

A. No. First of all, in the Cecil Rebuttal, Staff stated the requirements of 4 CSR 240-  
3.570 that are applicable to VCI, which did not include 4 CSR 240-3.570(3)(C)(3)  
and 3.570(2)(C)<sup>3</sup>. Elsewhere in this testimony, VCI has committed to compliance

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<sup>2</sup> Id.

<sup>3</sup> Cecil Rebuttal, pp. 5-6.

1 with the provisions of 4 CSR 240-3.570 that Staff has indicated are applicable.

2 Second, Commission rules 4 CSR 240-3.570(3)(C)(3) and 3.570(2)(C) can be  
3 applicable only to carriers that have facilities in the ground and have the  
4 capability of installing or constructing additional facilities. As indicated in VCI's  
5 application and testimony, the company does not have and is not required to have  
6 facilities "in the ground" to obtain ETC designation. The Federal  
7 Communications Commission has determined that UNE based carriers are  
8 "facilities based" for ETC designation purposes. As a practical matter, the  
9 network of a carrier providing service via UNEs is limited to that of the  
10 underlying carrier, which is responsible for maintaining and repairing its existing  
11 network and constructing or installing new network facilities. Like any other UNE  
12 based carrier, VCI can provide service anywhere AT&T's network is in place as  
13 well as anywhere AT&T determines to extend its network.

14 Q. DOES VCI OFFER A LOCAL USAGE PLAN COMPARABLE TO THAT  
15 OFFERED BY THE INCUMBENT LOCAL EXCHANGE CARRIER IN THE  
16 AREAS FOR WHICH THE CARRIER SEEKS DESIGNATION?

17 A. Yes, the Commission should note that the Federal Communications Commission  
18 has limited its discussion of comparable usage plans to the number of calls  
19 allowed and the local calling area, and does not recommend a specific  
20 comparability analysis.<sup>4</sup> The Commission also should note that, although AT&T  
21 cites to the Arizona Commission's analysis of comparability in the FCC's  
22 Recommended Decision,<sup>5, 6</sup> the FCC does not require a comparison of rates in the  
23

24 <sup>4</sup> *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, rel. March 17, 2005 (20  
FCC Rcd. 6371) at para. 33. ("March 17, 2005 Order").

25 <sup>5</sup> *In the Matter of the Federal- State Joint Board on Universal Service*, CC Docket No. 96-45, Recommended  
26 Decision, rel. February 27, 2004 (19 FCC Rcd 10812) at para. 36.

27 <sup>6</sup> Stidham Rebuttal, p. 6.

1 March 17, 2005 order. In Missouri, VCI will offer unlimited local calling  
2 throughout the calling area served by AT&T. Thus, VCI's local usage plan is  
3 comparable to AT&T's with respect to local calling area.

4 With respect to rates, in the Cecil Rebuttal, Staff compared VCI's rates to other  
5 competitive local exchange carriers rather than AT&T<sup>7</sup>, which is truly an "apples  
6 to apples" comparison. As a practical matter, competitive carriers are unable to  
7 offer service at rates at or near the incumbent carrier and remain financially  
8 viable. Furthermore, comparison of incumbent and competitive carrier rates is  
9 inappropriate because the cost bases of these carriers are entirely different. Staff  
10 has fairly compared VCI's rates with competitive carriers and found them  
11 acceptable.

12  
13 As an aside, the Pager and Phone Company, a Missouri ETC, offers local  
14 exchange service at a retail rate of \$29.95 plus 911 charges and applicable state  
15 and federal fees and taxes.<sup>8</sup> While the Pager and Phone Company's tariff does  
16 not list its Lifeline service rate, in deducting the \$7.00 discount for Federal Tiers  
17 2-3 support and state Lifeline support from the retail rate, the Lifeline rate would  
18 appear to be \$22.95, which is higher than VCI's Lifeline rate.

19 Q. DOES VCI INTEND TO COMPLY WITH THE FEDERAL PASS THROUGH  
20 RULES IN PRACTICING ITS LIFELINE SERVICE AND TO IDENTIFY THE  
21 CORRECT SUBSCRIBER LINE CHARGE?

22 A. Yes. In previous testimony, VCI erroneously identified the Subscriber Line  
23 Charge ("SLC") as \$6.50 rather than \$5.67. Yet, as is demonstrated below, even  
24 with the corrected SLC charge, VCI's Lifeline rate is \$19.00.

25  
26 <sup>7</sup> Cecil Rebuttal, pp. 3-4, 7.

27 <sup>8</sup> See Pager and Telephone Company Tariff, 6<sup>th</sup> Revised Page 35.2, effective June 16, 2006.

Tier I SLC	\$5.67
Tier II Federal Discount	\$1.75
Tier III State Low Income Discount	\$3.50
Additional Federal Discount	\$1.75
Total Federal/State Discounts	<u>\$12.67</u>
Company discount	\$ 3.99
Total Discounts:	\$16.66

In the Stidham Rebuttal, AT&T neglected to add the SLC charge into the basic rate before subtracting the total discounts and waivers<sup>9</sup>. The correct calculation is as follows:

$$\begin{array}{r}
 \$29.99 \\
 + \$ 5.67 \\
 \hline
 \$35.66 \\
 - \$16.66 \\
 \hline
 \$19.00
 \end{array}$$

Alternatively, AT&T could have disregarded the SLC, which is a waiver rather than a discount, and still have arrived at \$19.00 by subtracting the \$10.99 in discounts from \$29.99, which equals \$19.00.

Q. WHY DO YOU BELIEVE THAT GRANTING VCI ETC DESIGNATION IS IN THE PUBLIC INTEREST, CONVENIENCE AND NECESSITY?

A. VCI has demonstrated that its designation as an ETC will facilitate getting consumers on the telephone network, including unserved or underserved consumers.

First of all, Contrary to AT&T's contentions, VCI's designation would provide consumers with "meaningful choice" in wireline carriers as well as "value."<sup>10</sup> In the Cecil Rebuttal, Staff determined that VCI's designation as an ETC is in the

<sup>9</sup> Stidham Rebuttal, pp. 9-11.

<sup>10</sup> Stidham Rebuttal, pp. 11, 14.



1 public interest, among other reasons, because it is an alternative wireline carrier  
2 for consumers who are unable to obtain service from other carriers.<sup>11</sup> VCI stands  
3 by statements made in its application and testimony that consumers have  
4 contacted VCI from pay telephones to subscribe to service because of being  
5 disconnected from other carriers and of inability to comply with deposit and past  
6 due bill requirements. Consumers have provided VCI with this anecdotal  
7 information throughout the years the company has been providing low-income  
8 service. VCI is unique in serving this niche of unserved or underserved  
9 consumers. Furthermore, VCI's provision of service to as many as 60,000  
10 consumers in 10 states demonstrates that this customer niche exists and that  
11 consumers in general believe VCI offers "meaningful choice" and "value."

12 Second, VCI's method of advertising is effective at informing the greatest number  
13 of consumers of the existence of low-income telephone programs. In the Stidham  
14 Rebuttal, AT&T minimizes the importance of VCI's advertising plan as merely a  
15 requirement of ETC designation that all ETCs must follow.<sup>12</sup> However, the fact  
16 that VCI goes beyond the Federal Communications Commission's requirements  
17 by advertising the availability of Lifeline and Link-Up services via television  
18 commercials should be considered by the Commission as a positive factor in its  
19 public interest balancing test. Television advertising is the most effective  
20 communications medium because it reaches more consumers than bill stuffers,  
21 newspaper advertisements, web site notifications or any other type of advertising.  
22 VCI's television advertisements inform the largest pool of qualified low-income  
23 consumers of the existence and availability of Lifeline and Link-Up services,  
24 which contributes to increased participation rates in low-income programs for all

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25  
26 <sup>11</sup> Cecil Rebuttal, p. 7.

27 <sup>12</sup> Stidham Rebuttal, pp. 14-15.

1 carriers and to increased telephone penetration rates in Missouri.

2 Third, VCI's policies and procedures, such as early billing and education about  
3 alternatives to long distance service, benefit the low-income consumer. In VCI's  
4 experience, low-income consumers are more likely to pay their telephone bills if  
5 the bills are received on the first of the month, no matter when the due date.  
6 Thus, more consumers remain on the network.  
7

8 Fourth, VCI's consumer education program contributes to consumers' low or  
9 non-existence toll and long distance charges. Although AT&T disputes the link  
10 between VCI's consumer education program and low or nonexistent toll  
11 charges,<sup>13</sup> consumers informed about methods of lowering their telephone bills  
12 are more likely to institute these methods than consumers who are not so  
13 informed. VCI has found that the vast majority of its customers elect toll  
14 blocking service or purchase prepaid long distance telephone cards, thus reducing  
15 or eliminating local toll and long distance telephone bills.  
16

17 Fifth, the requirement of a deposit under any circumstances poses an obstacle to  
18 telephone service for low-income consumers, which VCI eliminates. While  
19 AT&T conducts credit checks and collects deposits from Lifeline customers who  
20 do not agree to toll limitation,<sup>14</sup> VCI does not either conduct credit checks or  
21 collect customer deposits, whether or not the customer agrees to toll limitation.  
22

23 Sixth, VCI's research indicates that it does offer value that is not already being  
24 provided by other carriers. Although the Commission lists twenty (20) prepaid  
25 service providers on its web site, the following sixteen (16) carriers stated on page

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26 <sup>13</sup> Stidham Rebuttal, p. 16.

27 <sup>14</sup> Stidham Rebuttal, p. 15.

4 of their 2005 annual reports that they served zero low-income or disabled subscribers:

1-800-Reconex	dPi – Teleconnect, L.L.C.
877-Ring Again	FamilyTel of Missouri, L.L.C.
AccuTel of Texas, L.P.	Global connection Incorporated of America
BullsEye Telecom, Inc.	Missouri State Discount Telephone
Buy-Tel Communications, Inc.	NewPhone
Camarato Distributing, Inc.	Telefonos Para Todos
Cat Communications International, Inc.	Tele-Reconnect
DialTone & More	TSI

Of the remaining four (4) carriers listed on the Commission's web site, Affordable Telephone Company is out of business and VCI was unable to find annual reports for the three (3) remaining companies. VCI also could not find any other documentation indicating that these (3) three companies serve low-income subscribers.<sup>15</sup> As the evidence suggests that none of the prepaid providers cited by AT&T serve low-income consumers, AT&T fails in its contention that VCI may not provide customers "value that is not already being provided by all of these market participants."<sup>16</sup>

Finally, Federal Communications Commission reports suggest that Missouri needs more competitive Lifeline and Link-Up providers. In the Stidham Rebuttal, AT&T cites to the most recent Universal Service Monitoring Report<sup>17</sup> ("the

<sup>15</sup> The remaining three companies, Cleartel Communications (now known as Now Communications Incorporated d/b/a Cleartel Communications), Phones for All, and YMax Communications Corp. did not file 2005 annual reports. The tariffs of YMax Communications and Now Communications do not indicate that these companies serve low-income consumers.

<sup>16</sup> Stidham Rebuttal at pp. 11-12.

<sup>17</sup> Universal Service Monitoring Report, CC Docket No. 98-202 (2006) (Data received through May 2006) ("Monitoring Report"). This document may be accessed on the FCC's web site at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-269251A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-269251A1.pdf). AT&T cites to Table 6.5, page 6-15.

Report”), for the proposition that Missouri’s telephone penetration rates currently compare favorably to the national average.<sup>18</sup> However, the statistic that is most relevant to this proceeding is the telephone penetration rate among *low-income households*. According to the Report, the nationwide telephone penetration rate among low-income households in March 2005 was 86.4%.<sup>19</sup> Missouri’s low-income household<sup>20</sup> penetration rate as of March 2005 was only 83.7%. No 2006 data was available for this statistic.

Q. ARE THE DECISIONS OF OTHER STATES, WHICH HAVE DETERMINED THAT THE DESIGNATION OF VCI AS AN ETC IS IN THE PUBLIC INTEREST, HELPFUL TO THE MISSOURI COMMISSION IN DETERMINING WHETHER VCI’S DESIGNATION IS IN THE PUBLIC INTEREST IN MISSOURI?

A. Yes, the Missouri Commission should take notice of and view favorably the fact that other states have determined that VCI’s designation as an ETC is in the public interest. The states where VCI has obtained ETC designation carefully reviewed VCI’s applications, and states such as New Mexico and North Dakota held hearings on VCI’s application. In fact, VCI participated in numerous hearings before the New Mexico Public Regulation Commission and worked closely with staff, especially on factors affecting the public interest inquiry. The New Mexico Commission Hearing Examiner’s favorable decision references extensive Findings of Fact and Conclusions of Law. No state where VCI was granted ETC designation merely “rubber stamped” the Company’s application.

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<sup>18</sup> Stidham Rebuttal, p. 13.

<sup>19</sup> Monitoring Report, page 2-2.

<sup>20</sup> Low income households are defined as households with income under \$10,000. Monitoring Report, Table 6.8, footnote †.

1 Q. SINCE VCI FILED ITS APPLICATION WITH THE COMMISSION, HAVE  
2 ANY OTHER STATES GRANTED VCI ETC STATUS?

3 A. Yes. Louisiana (Docket S-29619), Tennessee (Docket 06-00126) and Kansas  
4 (Docket 06-VCOT-1260-ECT) have recently approved VCI's application and  
5 granted VCI ETC designation.

6 Q. IN SUM, WHAT DOES VCI COMPANY HAVE TO OFFER MISSOURI AND  
7 MISSOURI CONSUMERS IF IT IS DESIGNATED AN ETC IN MISSOURI?

- 8 • Increased choice in carriers and value to consumers;
- 9 • Policies and procedures that benefit the low-income consumer;
- 10 • Education about alternatives to long distance service resulting in reduced  
or eliminated billing for toll and long distance charges;
- 11 • Service without credit checks or deposits, whether or not toll limitation is  
obtained;
- 12 • Service even though disconnected from other carriers for non-payment;
- 13 • Increased awareness of the existence and availability of Lifeline and Link-  
Up programs through television advertising; and
- 14 • Increased telephone penetration rates among low-income households.

15 Q. WILL VCI'S DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS  
16 CARRIER HAVE A NEGATIVE IMPACT ON MISSOURI STATE  
17 UNIVERSAL SERVICE FUND AS STATED IN THE STIDHAM  
REBUTTAL<sup>21</sup>?

18 A. No. VCI cannot possibly increase Lifeline and Link-Up program participation  
19 rates to 100% which is the premise of AT&T's argument. Furthermore, the  
20 Missouri Universal Service Fund reimburses all ETCs equally. Thus, not only  
21 will designation of VCI as an ETC have no negative financial impact on the fund,  
22 but it will confer benefits to consumers as set forth throughout this testimony.

23 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

24 A. Yes, it does.

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27 <sup>21</sup> Stidham Rebuttal, p. 14.