

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

In the Matter of the Application)
of Mercury Wireless Kansas, LLC DBA)
Mercury Broadband for Designation)
as an Eligible Telecommunications)
Carrier in additional Service Areas)
For the Purpose of High-Cost Support)
Under FCC Auction 904 and related)
Lifeline Support)

Case No. DA-2021-0189

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission, by and through counsel, and for its *Recommendation* in this matter hereby states:

1. On December 31, 2020, Mercury Wireless Kansas, LLC, (Company or Mercury) filed an *Application of Mercury Wireless Kansas, LLC, Notice of New Business Name, and Request for Waiver of 20 CSR 4240-4.017* with the Commission requesting that the Commission issue an order expanding the service area for which the Company is designated as an eligible telecommunications carrier (ETC). The Company's request, if approved, would permit it to receive federal low-income support and high-cost support pursuant to the Rural Digital Opportunity Fund (RDOF) auction held by the Federal Communications Commission (FCC).

2. The RDOF program is part of the FCC's attempt to bridge the digital divide. It seeks to expand high speed broadband service to rural homes and small businesses presently lacking the service. Phase one of the auction began October 29, 2020, and targeted over six million homes and businesses unserved by voice and broadband speeds with downloads of at least 25 Mbps. Phase two of the auction will cover areas that are partially unserved and those areas not covered in Phase one. Winning bidders

must submit to the FCC proof of their ETC status within 180 days of being announced as a winning bidder.

3. The Company is presently registered in the state of Missouri as an interconnected voice over internet protocol (VoIP) service provider. The Company included an Exhibit C with its *Application* which outlines the specific census blocks for which it requests expansion of its ETC designation.

4. Commission rule 20 CSR 4240-31.016 governs the specific eligible telecommunications carrier requirements that each applicant must meet. Applications must also comply with 20 CSR 4240-2.060 and shall be verified by oath as to the truthfulness contained in the application by an officer or director of the applicant.

5. The FCC requires all winning bidders to submit a Long Form that includes information about a company and its plans to fulfill its bid requirements, which must be approved prior to a company receiving any funds. The ETC process under 20 CSR 4240-31.016 does not address and is not designed to assess a company's technology broadband speed and latency capabilities.

6. Staff conducted an investigation and has provided a memorandum attached to this pleading as Appendix A. Staff's memorandum outlines the reasons why Staff believes Mercury has met the requirements of 20 CSR 4240-31.016 and should receive expanded ETC designation.

7. Mercury is also asking the Commission to recognize its name change to Mercury Wireless Kansas, LLC, d/b/a Mercury Broadband. Rule 20 CSR 4240-31.015(2) provides that any ETC that intends to change its name shall provide advance notice to the Commission of the name change and lays out the methods and requirements for such

notice. Staff herein states that the Company has complied with all aspects of the rule. No entities intervened to oppose the name change and the Company is not delinquent in any required filings with the Commission.

8. Mercury sought waiver of the 60 day notice requirement pursuant to the Commission's rule 20 CSR 4240-4.017. Staff recommends that the waiver be granted.

WHEREFORE, Staff recommends that the Commission approve Mercury Wireless Kansas, LLC's, request for expansion of its designation as an eligible telecommunications carrier for the purpose of receiving federal high-cost and low-income support for the areas identified by census blocks in Attachment C of the *Application*; that it recognize the name change to Mercury Wireless Kansas, LLC, d/b/a Mercury Broadband; that it grant a waiver of the 60 day notice requirement; and that it grant such other and further relief as the Commission considers just in the circumstances.

/s/ Whitney Payne

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail, or First Class United States Postal Mail, postage prepaid, on this 4th day of February, 2021, to all counsel of record.

/s/ Whitney Payne

MEMORANDUM

To: Missouri Public Service Commission Official Case File
Case No. DA-2021-0189

From: Kari Salsman, Research/Data Analyst
John Van Eschen, Regulatory Compliance Manager
Telecommunications Department

Subject: Staff's Recommendation to Approve Mercury Wireless Kansas, LLC d/b/a
Mercury Broadband's Request for Expansion of Existing ETC
Designation

Date: February 4, 2021

On December 31, 2020, Mercury Wireless Kansas, LLC d/b/a Mercury Broadband (Mercury or company) filed an application for expansion of their designation as an Eligible Telecommunications Carrier (ETC)¹. The company is a registered IVoIP provider in Missouri and is headquartered in Kansas City, Missouri.² Mercury also provided notice that it will provide its services under the name Mercury Broadband.³ The company was recently awarded federal Rural Digital Opportunity Fund (RDOF) support to build broadband facilities in more rural areas.⁴ The RDOF funding requires the company to extend broadband service to a designated number of locations in certain census blocks.⁵ Mercury seeks to expand their ETC designation to the won census blocks.

Federal authority enables state commissions to grant ETC status to a company.⁶ Missouri's ETC application requirements and ETC name change requirements are contained in existing Missouri Commission rules 20 CSR 4240-31.016 and 20 CSR 4240-31.015(2), respectively. Staff reviewed the company's request for compliance with Missouri's rules as well as federal requirements. In Staff's opinion the company has adequately met all requirements. Consequently Staff supports the company's application for expansion of their ETC status and notice of new name.

Staff recommends the Commission expand Mercury Broadband's ETC status for the purpose of receiving federal high-cost and low income support in the area identified by census blocks in Exhibit C of the company's application and recognize the ETC's new name Mercury Wireless Kansas, LLC d/b/a Mercury Broadband.

¹ ETC status granted in Case No. RA-2019-0094. The company currently is receiving federal high-cost support to expand broadband service to approximately 500 Missouri locations. The company uses a fixed wireless last mile technology.

² Case No. DA-2019-0082.

³ Name changed in Case No. DN-2021-0188.

⁴ The company has been awarded \$4,254,919 over 10 years to extend broadband service to 14,094 locations.

⁵ Census Block Service areas are listed in Exhibit C of ETC expansion application.

⁶ 47 U.S.C. §214(e)(2) and FCC rule §54.201.