

Exhibit No.:
Issue: Policy
Witness: James E. Stidham, Jr.
Type of Exhibit: Rebuttal Testimony
Sponsoring Party: Southwestern Bell Telephone, L.P. d/b/a/ SBC
Missouri
Case No.: TO-2005-0325

SOUTHWESTERN BELL TELEPHONE, L.P. d/b/a

SBC MISSOURI

CASE NO. TO-2005-0325

REBUTTAL TESTIMONY

OF

JAMES E. STIDHAM, JR.

Dallas, Texas

June 10, 2005

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Third Application of Missouri RSA)
No. 7 Limited Partnership, d/b/a Mid-Missouri Cellular,)
for Designation as a Telecommunications Company) Case No. TO-2005-0325
Carrier Eligible for Federal Universal Service Support)
Pursuant to Section 254 of the Telecommunications Act)
of 1996.)

AFFIDAVIT OF JAMES E. STIDHAM, JR.

STATE OF TEXAS)
)
COUNTY OF DALLAS)

I, James E. Stidham, Jr., of lawful age, being duly sworn, depose and state:

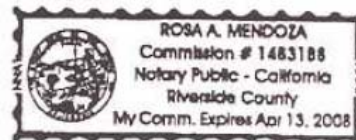
1. My name is James E. Stidham, Jr.. I am presently Associate Director – Regulatory Planning and Policy for SBC Services Inc.
2. Attached hereto and made a part hereof for all purposes is my rebuttal testimony.
3. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct to the best of my knowledge and belief.


JAMES E. STIDHAM, JR.

Subscribed and sworn to before this 8 day of June, 2005.


Notary Public

My Commission Expires: April 13, 2008



INTRODUCTION

1 **Q. WHAT IS YOUR NAME, TITLE AND BUSINESS ADDRESS?**

2 A. My name is James E. Stidham, Jr. My title is Associate Director – Corporate Regulatory
3 Planning and Policy. My business address is 208 S. Akard Street, Room 3041, Dallas,
4 Texas 75202.

5 **Q. HAVE YOU PREPARED AN EXHIBIT THAT PROVIDES INFORMATION**
6 **REGARDING YOUR EMPLOYMENT, EDUCATIONAL BACKGROUND AND**
7 **PREVIOUS APPEARANCES BEFORE STATE PUBLIC UTILITY**
8 **COMMISSIONS?**

9 A. Yes. That information is included in Schedule JES-1 attached to my Rebuttal Testimony.

10 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

11 A. The purpose of my Rebuttal Testimony is to respond to the Direct Testimonies of
12 Michael Kurtis and Kevin Dawson that were filed concurrently with the March 25, 2005
13 Third Application of Missouri RSA No. 7 Limited Partnership d/b/a Mid-Missouri
14 Cellular's ("MMC") requesting that it be designated as an Eligible Telecommunications
15 Carrier ("ETC") for purposes of receiving Federal Universal Service Fund ("FUSF")
16 support. (hereinafter, "MMC's Application"). I also discuss some of the information
17 provided with and issues raised by MMC's Application. I recommend that the
18 Commission consider the information and analysis I provide in assessing whether it is in
19 the public interest to grant MMC's Application.

20 **Q. PLEASE IDENTIFY THE MAIN POINTS CONVEYED BY YOUR REBUTTAL**
21 **TESTIMONY.**

22 A. The main points conveyed by my Rebuttal Testimony are that:

- 23 • MMC has not met its burden of proof to show that granting its request to be designated as
24 an ETC would be in the public interest, based on the analytical framework provided by

1 the FCC’s January, 2004 Virginia Cellular ETC Designation Order¹ and its March, 2005
2 ETC Report and Order.² In fact, MMC’s position is that it is not required to show that its
3 application is in the public interest in non-rural service areas. It states that “[t]he
4 Commission must designate more than one carrier as an ETC in an area served by a non-
5 rural telephone company if the requesting carrier meets the requirements of Section
6 214(e)(1) of the Act” and that “[w]ith respect to areas served by a rural telephone
7 company, the Commission may make the ETC designation if it finds that the designation
8 is consistent with the public interest....”³ As such, MMC provides no specific evidence
9 demonstrating that it meets the public interest showing required by Section 214 (e)(2) of
10 the Communications Act of 1934 as amended by the Telecommunications Act of 1996
11 (“the Act”) in the wire centers of SBC Missouri,⁴ and its evidence directed to rural
12 services areas is deficient. Yet, both the Virginia Cellular ETC Designation Order and
13 the ETC Report and Order clearly state that a public interest showing is required for all
14 ETC applications regardless of whether the ETC applicant seeks designation in an area
15 served by a rural or non-rural carrier.⁵

- 16 • It is particularly appropriate that the Commission rely on the FCC’s ETC Report and
17 Order because it is the most recent ruling from the FCC regarding ETC applications, and
18 because it will help this Commission to foster three important policies. These are, first,

¹ In the Matter of Federal-State Joint Board on Universal Service; Virginia Cellular, LLC Application for Designation as an Eligible Telecommunications Carrier In the Commonwealth of Virginia, Memorandum Opinion and Order, CC Docket No. 96-45, 19 FCC Rcd 1563 (2004) (“Virginia Cellular ETC Designation Order”).

² In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, FCC 05-46, released March 17, 2005) (“ETC Report and Order”).

³ Kurtis Direct, p. 7. Additionally, MMC’s Application states that before the Commission designates an additional ETC for an area served by a rural telephone company, the Commission must find that the designation would be in the public interest does not refer to the public interest. MMC’s Application, paras. 4, 25.

⁴ MMC’s Application, paras. 4, 25.

⁵ Virginia Cellular ETC Designation Order, paras. 21, 27; ETC Report and Order, para. 42.

1 to “improve the long-term sustainability of the universal service fund;”⁶ second, to “allow
2 for a more predictable ETC designation process;”⁷ and third, to “ensure designation of
3 carriers that are financially viable, likely to remain in the market, willing and able to
4 provide the supported services throughout the designated service area, and able to
5 provide consumers an evolving level of universal service.”⁸ The FCC expressly noted
6 that state decisions regarding ETC status “have national implications that affect the
7 dynamics of competition, the national strategies of new entrants, and the overall size of
8 the federal universal service fund.”⁹

- 9 • Granting applications like that of MMC, when considered collectively, have a material
10 impact on the FUSF and negatively impact Missouri consumers by increasing FUSF
11 contributions.

12 **THE FCC’S ETC REPORT AND ORDER**

13 **Q. PLEASE IDENTIFY THE PERTINENT PORTIONS OF THE FCC’S ETC** 14 **REPORT AND ORDER.**

- 15 A. In its ETC Report and Order, the FCC adopted many of the recommendations of the
16 Federal-State Joint Board on Universal Service (“Joint Board”). Specifically, the FCC
17 adopted certain requirements for applicants seeking designation as an ETC. The FCC
18 “encourage[d] states that exercise jurisdiction over ETC designations pursuant to section
19 214(e)(6) of the Act, to adopt these requirements when deciding whether a common
20 carrier should be designated as an ETC.”¹⁰

21 The FCC’s ETC Report and Order also adopted certain factors for use in the public
22 interest analysis required by Section 214(e)(2) of the Act. The FCC “strongly

⁶ ETC Report and Order, para. 2.

⁷ ETC Report and Order, para. 1.

⁸ ETC Report and Order, para. 60.

⁹ ETC Report and Order, para. 60.

1 encouraged state commissions to consider the same factors in their public interest
2 reviews.”¹¹

3 The FCC’s requirements and public interest criteria are appropriate and reasonable.
4 Applying them here would help achieve a reasonable level of consistency in treatment of
5 ETC applications across the nation. It would also ensure that MMC’s Application (and
6 others) would be subjected to the same requirements and public interest criteria
7 regardless of whether such applications were filed with a state commission or the FCC.

8 **Q. DOES MR. KURTIS COMMENT ON THE APPLICATION OF THE ETC**
9 **REPORT AND ORDER TO THIS CASE?**

10 A. Yes. Mr. Kurtis states that “[t]aken as whole, the guidelines set forth in the [ETC Report
11 and Order] are intended to enable a state commission to be satisfied that the applicant, if
12 designated as an ETC, would use the USF support it receives in a manner consistent with
13 the Act and the applicable FCC rules and regulations and for the benefit of the citizens
14 residing in the area from which the support is drawn.”¹²

15 **Q. DOES MR. KURTIS AGREE THAT THE COMMISSION SHOULD APPLY THE**
16 **PUBLIC INTEREST FACTORS AND CRITERIA IN THE ETC REPORT AND**
17 **ORDER TO THIS CASE?**

18 A. It is not entirely clear, because while he appears to suggest that the Commission should
19 use the FCC’s “guidelines,” his testimony does not explicitly state that the Commission
20 should use them. Mr. Kurtis states that “following those guidelines would result in the
21 designation of MMC as an ETC.”¹³ Mr. Kurtis continues on to say the ETC Report and

¹⁰ ETC Report and Order, para. 1.

¹¹ ETC Report and Order, para. 41.

¹² Kurtis Direct, p.27. As a point of clarification, MMC refers to the FCC’s ETC Report and Order as the “FCC Guidelines Order.”

¹³ Kurtis Direct, p. 27.

Order “does add some additional suggested analysis to be performed on a ‘per wire center’ basis. MMC has included such information in its filing and testimony.”¹⁴

Q. DOES THE COMMISSION HAVE DISCRETION AS TO WHETHER TO APPLY THE FCC’S OWN REQUIREMENTS AND PUBLIC INTEREST FACTORS TO THIS CASE?

A. Yes. The requirements and public interest factors will apply to ETC applications filed with the FCC.¹⁵ The FCC strongly recommended, and SBC strongly supports, that they also be applied to all ETC applications filed with state commissions. In other words, the ETC Report and Order’s requirements and public interest factors are “Permissive Guidelines for State ETC Designation Proceedings,”¹⁶ albeit important ones.

Q. WHY DOES SBC MISSOURI SUPPORT APPLYING THE FCC’S GUIDELINES TO THIS CASE?

A. There are a number of reasons. Missouri’s use of these guidelines will contribute to a rational, comprehensive, national policy to promote the advancement and preservation of universal service. While the FCC did not require states to use these guidelines, it nevertheless found that, collectively, state decisions regarding ETC status “have national implications that affect the dynamics of competition, the national strategies of new entrants, and the overall size of the federal universal service fund”¹⁷ and believed that State adherence to the guidelines would produce the best result.

The guidelines are fully consistent with the Act and the recommendations of the Joint Board on Universal Service, which spent considerable time analyzing the issue. SBC Missouri believes that the FCC’s conclusions are correct: that the requirements embodied

¹⁴ Kurtis Direct, p. 27.

¹⁵ The FCC reviews ETC applications only when the state relinquishes its authority to review ETC applications to the FCC or when the application is on tribal lands. See, 47 U.S.C. Section 214(e)(6).

¹⁶ ETC Report and Order, para. 58 (caption).

¹⁷ ETC Report and Order, para. 60.

1 in the Guidelines will result in a rigorous ETC designation process;¹⁸ will “improve the
2 long-term sustainability of the universal service fund;”¹⁹ will “allow for a more
3 predictable ETC designation process;”²⁰ and will “ensure designation of carriers that are
4 financially viable, likely to remain in the market, willing and able to provide the
5 supported services throughout the designated service area, and able to provide consumers
6 an evolving level of universal service.”²¹

7 The guidelines provide for certain consumer protections and a review, on a case-by-case
8 basis, of the factors necessary to ensure that each ETC provides a local usage component
9 in its universal service offerings that is comparable to the plan offered by the incumbent
10 local exchange carrier (“ILEC”) in the area. Also, the guidelines require the ETC to be
11 able to remain operational in case of an emergency, so that consumers will have service
12 when they need it most. The guidelines create an annual review of the actions of an ETC,
13 so the qualification process is on going, and they provide clear planning and reporting
14 requirements to show that the use of FUSF support complies with Section 254 of the Act.

15 SBC Missouri also supports the FCC’s determination that a public interest showing is
16 required in all ETC proceedings, both rural and non-rural. The ETC Report and Order is
17 clear in this regard:

18 “Section 214(e)(2) of the Act gives states the primary responsibility to designate
19 ETCs and prescribes that all state designation decisions must be consistent with the
20 public interest, convenience, and necessity.”²²
21
22

23 The Act is likewise clear:
24

¹⁸ ETC Report and Order, para. 2.

¹⁹ ETC Report and Order, para. 2.

²⁰ ETC Report and Order, para. 1.

²¹ ETC Report and Order, para. 60.

²² ETC Report and Order, para. 61. (emphasis added).

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 rural telephone
3 company, and shall, in the case of all other areas, designate more than one common
4 carrier as an eligible telecommunications carrier for a service area designated by the
5 State commission.”²³
6

7 **Q. WHAT ACTIONS WOULD YOU RECOMMEND TO THE COMMISSION IN**
8 **LIGHT OF THE ETC REPORT AND ORDER?**

9 A. I recommend that the Commission complete its contemplated proceeding to establish
10 rules for ETCs prior to analyzing this, or any other, individual application. This would
11 allow the Commission to establish its policy regarding designations of competitive ETCs
12 (i.e., ETCs that are not incumbent local exchange carriers (“CETCs”) in a comprehensive
13 rather than piece meal way. If the Commission determines, however, not to do so, I
14 recommend that the Commission at least apply the FCC’s new guidelines to MMC’s
15 Application and all other pending (and future) ETC applications until the Commission
16 completes its contemplated rulemaking proceeding. As discussed above, MMC witness
17 Mr. Kurtis appears to concur with my recommendation that the Commission use the
18 FCC’s ETC Report and Order as the basis for evaluating MMC’s Application.

19 **REQUIREMENTS OF THE ETC REPORT AND ORDER**

20 **Q. MMC’S APPLICATION AND TESTIMONY DISCUSS THE ETC REPORT AND**
21 **ORDER. WHAT ARE THE SPECIFIC REQUIREMENTS OF THE FCC’S ETC**
22 **REPORT AND ORDER?**

23 A. The ETC Report and Order requires that any application for ETC status be in the public
24 interest. In addition, the Order requires a carrier requesting ETC status to
25 (1) commit to provide service throughout its proposed designated service area to all
26 customers;²⁴

²³ 47 U.S.C. Section 214(e)(2). (emphasis added).

²⁴ ETC Report and Order, para. 21.

1 (2) submit a five-year plan that describes with specificity proposed improvements or
2 upgrades to the applicant's network on a wire center-by-wire center basis throughout its
3 proposed designated service area;²⁵

4 (3) demonstrate its ability to remain functional in emergency situations;²⁶

5 (4) demonstrate that it will satisfy appropriate consumer protection and service quality
6 standards;²⁷

7 (5) demonstrate that it offers a local usage plan comparable to the one offered by the
8 incumbent LEC in the service areas for which it seeks designation;²⁸ and

9 (6) certify that the carrier acknowledges that the FCC may require it to provide equal
10 access to long distance carriers if all other ETCs withdraw from the market.²⁹

11 Once approved to be an ETC, an ETC must provide annually a progress report on
12 its five-year service quality improvement plan; detailed information on any outage; the
13 number of requests for service from potential customers within the eligible
14 telecommunications carrier's service areas that were unfulfilled during the past year; the
15 number of complaints per 1,000 handsets or lines; certification that it is complying with
16 applicable service quality standards and consumer protection rules; certification that the
17 carrier is able to function in emergency situations; certification that the carrier is offering
18 a local usage plan comparable to that offered by the ILEC; and, certification that the
19 carrier acknowledges that the FCC may require it to provide equal access.³⁰

²⁵ ETC Report and Order, para. 23.

²⁶ ETC Report and Order, para. 25.

²⁷ ETC Report and Order, para. 28.

²⁸ ETC Report and Order, para. 33.

²⁹ ETC Report and Order, para. 35.

³⁰ ETC Report and Order, para. 69.

1 **Q. DOES THE ETC REPORT AND ORDER CONVEY A FRAMEWORK FOR**
2 **APPLYING A PUBLIC INTEREST ANALYSIS WHEN CONSIDERING ETC**
3 **DESIGNATIONS?**

4 A. Yes it does. The FCC's ETC Report and Order "set[s] forth our public interest analysis
5 for ETC designations, which includes an examination of (1) the benefits of increased
6 consumer choice, (2) the impact of the designation on the universal service fund, and (3)
7 the unique advantages and disadvantages of the competitor's service offering."³¹ The
8 FCC's public interest examination also includes an analysis of the potential for cream-
9 skimming.³²

10 **MMC's APPLICATION AND SUPPORTING TESTIMONY**

11 **Q. IN YOUR OPINION, BASED ON MMC's APPLICATION AND THE DIRECT**
12 **TESTIMONIES OF MR. KURTIS AND MR. DAWSON, HAS MMC SHOWN**
13 **THAT DESIGNATING IT AS AN ETC WOULD BE IN THE PUBLIC**
14 **INTEREST?**

15 A. No. MMC has not met its burden to show that granting its Application would be in the
16 public interest, based on the FCC's requirements (or guidelines, as applied to analyses by
17 state commissions). MMC focuses extensively on the increase in competition it believes
18 would result from its being granted ETC status, but its analysis regarding the role of
19 competition in a public interest analysis rests on outdated FCC Orders. In an apparent
20 attempt to show the unique advantages of its service, MMC points out that its offering
21 includes vertical services (e.g. three way calling, call waiting), services commonly
22 offered by SBC Missouri and other providers, and that its service is mobile. Moreover,
23 there is a high potential for MMC to engage in cream-skimming as will be discussed later
24 in my Rebuttal Testimony.

³¹ ETC Report and Order, para. 18.

³² ETC Report and Order, para. 18.

1 MMC relies on a series of outdated citations as precedents for its claim that that the goal
2 of the FCC and Sections 214 and 254 of the Act are to “stimulate competition.” MMC
3 Application, p. 15). For example, MMC includes a citation from a 1995 FCC Order
4 predating the passage of the federal Telecommunications Act of 1996 related to radio
5 frequency licenses, in support of its claim its application meets the public interest.
6 (MMC’s Application, p. 15). This single focus on competition is directly contrary to the
7 ETC Report and Order which explicitly states that “the value of increased competition,
8 by itself, is unlikely to satisfy the public interest test.”³³

9 **Q. DOES MMC OFFER ANY OTHER ARGUMENTS FOR WHY ITS REQUEST**
10 **SHOULD BE APPROVED?**

11 A. MMC contends that designation of wireless carriers has had no adverse impact on the
12 FUSF and that Missourians will miss out on the benefit of additional funding if the
13 Commission does not grant MMC’s request for ETC status.³⁴

14 **Q. HAS THERE BEEN AN IMPACT TO THE FUSF AS A RESULT OF**
15 **COMPETITIVE ETCs GAINING HIGH COST SUPPORT?**

16 A. Yes, there has been a material impact on the amount of USF required as a result of CETC
17 designations. MMC points to the steady FUSF contribution factor data from the third
18 quarter of 2003 through third quarter of 2004 as proof that support provided to CETCs
19 has not impacted the FUSF. This is a faulty analysis. MMC does not include in its
20 analysis the fact that the FCC used surplus funds from the Schools and Libraries program
21 to stabilize the contribution factor during that time. Since that practice ended, the
22 contribution factor jumped by 10.7% for the first quarter of 2005, and it then jumped by
23 11.1% for the second quarter of 2005.

³³ ETC Report and Order, para. 44.

³⁴ Kurtis Direct, p. 13.

1 In addition, the contribution factor does not tell the full story. The contribution factor is
2 the net result of many dynamic elements of the different components of the universal
3 service programs. To isolate the effect of CETCs on the Fund, one must look at the
4 estimates of demand for the programs from which CETCs draw support. Based on the
5 Universal Service Administration Company's ("USAC's") demand projections, the high
6 cost fund for the third quarter of 2005 will be \$1.017B in high cost, over 20% of which
7 will go to CETCs,. About 94% of the support going to CETCs, or over 19% of the
8 \$1.017B total, will go to wireless carriers. If USAC's third quarter projections for
9 wireless high cost support are annualized, \$776M of \$4.07B of high cost support will go
10 to wireless CETCs. Wireless high cost represents about 11.6% of the total FUSF. To put
11 this into perspective, if the current FUSF surcharge were decreased to account for the
12 11.6% of FUSF attributable to wireless high cost support, the current 11.1% surcharge
13 would be 9.81%. Currently, consumers of retail telecommunications services (except
14 Lifeline customers) in this country pay an additional 1.28% on their interstate
15 telecommunications bill to support wireless ETCs.

16 **Q. WILL MISSOURI MISS OUT ON THE BENEFITS OF INCREASED FEDERAL**
17 **HIGH COST SUPPORT IF IT DENIES MMC's APPLICATION AND IF OTHER**
18 **STATES CONTINUE TO GRANT CETCs' APPLICATIONS?**

19 A. It may be that a few future customers in Missouri who would have purchased MMC's
20 service might not benefit. But the fact is that the FUSF will grow less, and all Missouri
21 ratepayers will contribute more, if MMC's Application is granted than if its Application
22 is denied. As a result of the FCC's ETC Report and Order, other states have changed, or
23 are reviewing, their rules that apply to ETCs and ETC applications. For example,
24 Oklahoma created new rules for wireless ETCs, and Texas has announced a rulemaking
25 to consider the FCC's ETC Report and Order. As the FCC stated, "collectively these

1 decisions have national implications that affect the dynamics of competition, the national
2 strategies of new entrants, and the overall size of the federal universal service fund.”³⁵

3 **Q. MMC’S TESTIMONY STATES THAT IT IS READY TO UNDERTAKE**
4 **CARRIER OF LAST RESORT OBLIGATIONS IF THE EXISTING ETC SEEKS**
5 **TO RELINQUISH ITS ETC STATUS. (DAWSON DIRECT, P. 19). PLEASE**
6 **RESPOND TO THIS STATEMENT.**

7 A. I cannot comment on whether MMC is in fact ready to take on the Carrier of Last Resort
8 obligations under such a circumstance. Furthermore, I am not sure exactly what MMC
9 means when it says this, or how its interpretation of Carrier of Last Resort obligations
10 differs, if at all, from the state and federal requirements. Missouri’s statute on the
11 subject, 386.020(6) RSMo. 2000, defines a "carrier of last resort" as “any
12 telecommunications company which is obligated to offer basic local telecommunications
13 service to all customers who request service in a geographic area defined by the
14 commission and cannot abandon this obligation without approval from the commission.”
15 Section 214(e) of the Act states that “[a] common carrier designated as an eligible
16 telecommunications carrier under paragraph (2), (3), or (6) shall be eligible to receive
17 universal service support in accordance with section 254 of this title and shall, throughout
18 the service area for which the designation is received. . .

19 (A) offer the services that are supported by Federal universal service support mechanisms
20 under section 254(c).”

21 **Q. MMC STATES, AT PARAGRAPH 10 OF ITS APPLICATION, THAT “FOR**
22 **NON-RURAL SERVICE AREAS, THERE ARE NO RESTRICTIONS ON HOW A**
23 **STATE COMMISSION DEFINES THE ‘SERVICE AREA’ FOR PURPOSES OF**
24 **DESIGNATING A COMPETITIVE ETC.” PLEASE RESPOND TO THIS**
25 **STATEMENT.**

26 A. While the Commission is not restricted by statute in how it defines the service area of
27 non-rural carriers, the definition of “service area” is critical to addressing cream-

³⁵ ETC Report and Order, para. 60.

1 skimming concerns because implicit subsidies still remain strong elements of the
2 universal service structure at the state level. Defining a service area that is smaller than
3 the entire service area of the incumbent carrier brings with it strong incentives to cream-
4 skim either the USF high cost support or the implicit universal service support embedded
5 in the pricing structure of local service, toll and intrastate access rates. Defining a service
6 area below the wire center level would result in even more severe cream-skimming,
7 allowing the CETC to benefit from either skimming the cream that supports universal
8 service via implicit subsidies, or skimming the cream from the explicit subsidies,
9 depending on the cost structure of the wire center(s). The explicit universal service
10 support that is available to the non-rural carriers is based on the average of the costs of all
11 lines in the wire center and is designed to support all of the lines of the wire center
12 together. If a competitive carrier is allowed to serve only a portion of the wire center, yet
13 receive the average cost per line in support, the competitive carrier has every incentive to
14 serve only the low cost lines. This is the very result the FCC was concerned about in
15 addressing cream-skimming in its public interest test.

16 **Q. PLEASE DESCRIBE THE FCC’S ANALYSIS REGARDING CREAM-**
17 **SKIMMING AND EXPLAIN HOW CREAM-SKIMMING CAN OCCUR IN**
18 **WIRE CENTERS OF NON-RURAL CARRIERS RECEIVING FUSF HIGH COST**
19 **SUPPORT.**

20 **A** First, the FCC discusses cream-skimming in the context of a rural carrier, but the analysis
21 holds true for non-rural carriers as well. The FCC states that “[b]y serving a
22 disproportionate share of the high-density portion of a service area, an ETC may receive
23 more support than is reflective of the rural incumbent LEC’s costs of serving that wire
24 center because support for each line is based on the rural telephone company’s average
25 costs for serving the entire service area unless the incumbent LEC has disaggregated its

1 support.”³⁶ In other words, cream-skimming occurs when a carrier serves only the low
2 cost customers while recovering FUSF support based on providing service to all
3 customers. In this circumstance, the carrier serves wire center(s) with high population
4 density but not wire centers with low population density, although FUSF support is
5 average across all wire centers. The FCC’s analysis looks at the population density of the
6 wire centers in a carrier’s service area to determine if an ETC application could result,
7 even unintentionally, in cream-skimming.

8 The same analysis should be applied to non-rural carriers, particularly if an ETC applies
9 to provide service to a partial wire center that is receiving FUSF high cost support. The
10 FUSF support for the wire center is based on the average cost per loop across the entire
11 wire center, yet the ETC might request to serve only, or primarily, the lower cost, high
12 density portion of the wire center. The ETC would receive support based on the average
13 loops cost while serving only low cost customers, and thus would receive a financial
14 wind fall while draining away the implicit support intended to support the high cost, low
15 density portion of the wire center.

16 **Q. WHAT HIGH COST SUPPORT DOES SBC MISSOURI RECEIVE, AND HOW**
17 **DOES THIS TYPE OF SUPPORT WORK?**

18 A SBC Missouri receives FUSF high cost Interstate Access Support (“IAS”). This support
19 is the result of the FCC’s CALLS Order, which decreased interstate access rates and
20 replaced some of the lost revenue by raising the Subscriber Line Charge (“SLC”) cap and
21 providing USF high cost support.³⁷ SBC Missouri receives IAS in its zone 4 wire

³⁶ ETC Report and Order, para. 49. (further citation omitted).

³⁷ In the Matter of Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers; Low-Volume Long Distance Users; Federal-State Joint Board On Universal Service, CC Docket No. 96-262; CC Docket No. 94-1; CC Docket No. 99-249; CC Docket No. 96-45, Sixth Report and Order in CC Docket Nos. 96-262 and 94-1, Report and Order in CC Docket No. 99-249, and Eleventh Report and Order in CC Docket No. 96-45, 15 FCC Rcd 12962 (2000) (“CALLS Order”), *aff’d in part, rev’d in part, and remanded in part*, Texas Office of Public Util. Counsel v. FCC, 265 F. 3d 313 (5th Cir. 2001), Order on Remand, 18 FCC Rcd 14976 (2003).

1 centers; twelve of the fourteen SBC Missouri wire centers that MMC is requesting ETC
2 status for are zone 4 wire centers. Under the FCC's CALLS Order, total nationwide IAS
3 support is capped at \$650 million. Because the IAS is limited to \$650 million, addition
4 of new ETCs and any additional access lines associated with the new ETCs dilute the
5 support available to the original recipients. The original support calculations were
6 developed to provide the support level deemed necessary for the original carriers.
7 Increasing the number of carriers and the number of access lines decreases the support
8 available to carriers currently receiving the support. Thus, carriers like MMC diminish
9 the IAS provided to the original recipients.

10 **Q. OTHER THAN MOBILITY, DOES MMC'S SERVICE OFFER ANY UNIQUE**
11 **ADVANTAGES AND DISADVANTAGES?**

12 A. Based on what MMC has provided, and based on the information available on MMC's
13 website,³⁸ I do not think so. The website has a promotional offer that allows a customer
14 to obtain unlimited coast to coast minutes, coast to coast coverage, Caller ID, Call
15 Forwarding, 3-Way Calling, Call Waiting, and Voicemail for \$99.95. SBC Missouri
16 offers the same package to its customers for about half the price.

17 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

18 A. Yes

³⁸ See MMC website at www.midmocellular.com and www.midmocellular.com/promos/index.cfm

SCHEDULE JES-1

1 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT POSITION?**

2 A. I am employed by SBC Services, Inc. ("SBC"), as an Associate Director-
3 Regulatory Policy in SBC's Regulatory Planning and Policy group. My
4 responsibilities include the development of Universal Service policy in all of
5 SBC's jurisdictions, including Missouri.

6 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND.**

7 A. I hold Bachelors Degrees in Telecommunications and Political Science from the
8 University of Oregon. I have also done additional graduate level coursework in
9 Communications at the University of Iowa, and in Political Science at Portland
10 State University.

11 **Q. PLEASE SUMMARIZE YOUR TELECOMMUNICATIONS INDUSTRY**
12 **WORK EXPERIENCE.**

13 A. I have approximately seventeen years of telecommunications experience. In
14 1988, I began my career in the telephone industry at the National Exchange
15 Carrier Association ("NECA") in the Industry Relations organization. I was
16 responsible for developing Average Schedule methods and procedures, analyzing
17 the impact of new technologies on the NECA member companies, developing
18 special settlements for carriers implementing new technologies (e.g. Equal Access
19 and SS7) and reviewing and analyzing Federal Communications Commission
20 ("FCC") rule changes. I also assisted in the development of the NECA Access
21 Charge Handbook. In 1992, I joined Bell Atlantic (now Verizon) and worked in a
22 variety of regulatory roles both at Bell Atlantic-West Virginia and Bell Atlantic
23 Corporate in Maryland. My responsibilities included regulatory support,
24 intercarrier settlement, regulatory finance and marketing. In 1997, I joined

SCHEDULE JES-1

1 American Communications Services, Inc. (ACSI), later known as e.spire
2 Communications, Inc., and now as Xspedius Management Company, as the
3 Director of Carrier Management. My responsibilities with ACSI included
4 wholesale billing, the development of reciprocal compensation policy, billing
5 methods and the billing of reciprocal compensation, industry relations, and the
6 creation and management of their telco cost control organization. In 1998, I left
7 ACSI to provide executive consulting services to competitive local exchange
8 carriers (CLECs) and to a small incumbent local exchange carrier ("ILEC"). This
9 consulting work involved several subjects, including intercarrier compensation,
10 and billing and cost control operations matters. In July 2000, I joined the SBC
11 family of companies. I work with SBC's federal regulatory group on various
12 policy matters, particularly universal service fund ("USF") issues, and often serve
13 as the SBC corporate 13-state policy witness for universal service fund matters. I
14 also participate in the development of corporate policy for intercarrier
15 compensation (i.e. reciprocal compensation and access charges) and have
16 previously participated in the development of corporate policy for advanced
17 services.

18 **Q. WHAT IS YOUR PREVIOUS EXPERIENCE PRESENTING TESTIMONY**
19 **TO STATE UTILITY REGULATORY COMMISSIONS?**

20 **A.** I have filed testified before the Public Utility Commission of Nevada, the Indiana
21 Utility Regulatory Commission, the Kansas Corporation Commission and the
22 Illinois Commerce Commission. I have also participated in workshops at the
23 Public Utility Commission of Texas, the Oklahoma Corporation Commission, the
24 Indiana Utility Regulatory Commission, the California Public Utility

SCHEDULE JES-1

- 1 Commission, the Illinois Commerce Commission, and the Missouri Public
- 2 Service Commission.