

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

Application of American Broadband and)
Telecommunications Company for Designation) File No. RA-2014-0225
As an Eligible Telecommunications Carrier for the)
Purpose of Offering Lifeline Service on a Wireless Basis)

**APPLICATION TO INTERVENE, NOTICE OF OPPOSITION,
AND REQUEST FOR HEARING**

COME NOW Holway Telephone Company d/b/a “American Broadband” (Holway) and K.L.M. Telephone Company d/b/a “American Broadband” (KLM) pursuant to Commission Rule 4 CSR 240-2.075 and for their Application to Intervene, state to the Missouri Public Service Commission (“Commission”) as follows:

INTERVENORS

1. Holway Telephone Company is a Missouri Corporation with its principal Missouri office located at 208 Ash Street, Maitland, Missouri 64466-0112. Holway was incorporated in the state of Missouri on October 5, 1961. On September 18, 1987, Holway was issued a restated certificate of service authority by the Commission in Case No. TA-88-63. Holway registered the “American Broadband” fictitious name with the Missouri Secretary of State on January 29, 2013. See Attachment A, No. X01286910.

2. K.L.M. Telephone Company is a Missouri Corporation with its principal Missouri office located 208 Ash Street, Maitland, Missouri 64466-0112. KLM was incorporated in the state of Missouri on January 17, 1955. On September 18, 1987, KLM was issued a restated certificate of service authority by the Commission in Case No. TA-88-61. KLM registered the “American Broadband” fictitious name with the Missouri Secretary of State on January 29, 2013. See Attachment A, No. X01286910.

3. Holway and KLM currently provide telecommunications services to members of the public located in those areas certificated to them by the Commission. Holway and KLM are “telecommunications companies” and “public utilities” as those terms are defined by §386.020 RSMo 2013 Cum. Supp. and are therefore subject to the jurisdiction, regulation and control of the Commission as provided by law. Holway and KLM are also “incumbent local exchange telecommunications companies” and “small local exchange telecommunications companies” as defined by §386.020(22) and (31).

4. Holway and KLM were designated by the Commission as Eligible Telecommunications Carriers (ETCs) by the Commission on December 4, 1997.¹ Holway and KLM currently provide Lifeline service to Missouri customers pursuant to federal law and the Commission’s rules.

5. On February 14, 2013, the Commission issued its *Order Granting Application* in File Nos. IN-2013-0370 and IN-2013-0371 recognizing Holway and KLM’s adoption of the “American Broadband” fictitious name and approving tariff sheets to acknowledge Holway and KLM’s use of the “American Broadband” fictitious name. See Attachment B. Holway and KLM’s tariff sheets recognizing use of the “American Broadband” fictitious name went into effect on March 1, 2013. See Attachment C (tariff sheets recognizing use of “American Broadband” fictitious name).

¹ *In the Matter of the Application of the Mid-Missouri Group and the Small Telephone Company Group of Incumbent Local Exchange Companies for Designation as Telecommunications Company Carriers Eligible for Federal Universal Service Support pursuant to Section 254 of the Telecommunications Act of 1996*, Case No. TO-98-49, *Order Approving Stipulation and Designation of Eligible Telecommunications Carriers*, issued Dec. 4, 1997.

LIMITED OPPOSITION

6. This case involves an application by American Broadband and Telecommunications Company (“ABTC”) for ETC status for purposes of offering Lifeline service on a wireless basis in non-rural areas of the state of Missouri.

7. **No Position on Grant of ETC Status.** Holway and KLM take no position on whether the Commission should grant ETC status to ABTC in this case.

8. **Opposition to Use of “American Broadband” Name to Provide Service.** Holway and KLM oppose any grant of authority that would allow ABTC to offer Lifeline service under the “American Broadband” name in Missouri because this would cause customer confusion and falsely suggest a connection with the telecommunications and Lifeline services currently provided by Holway and KLM under the American Broadband fictitious name.

9. **No Objection to Use of “American Assistance” Name.** It appears that ABTC plans to offer wireless Lifeline service under the name “American Assistance”. See ABTC Application, ¶11 (identifying <http://www.americanassistance.com/> web site) and Exhibit F (sample Missouri Application identifying “American Assistance” as Lifeline provider). Holway and KLM do not object to the use of the “American Assistance” name so long as all references to “American Broadband” are removed from the Missouri customer application and Missouri marketing. In fact, the Commission and its Staff have made clear that in Missouri an ETC may only offer service under a name approved by the Commission.²

² See e.g. *In the Matter of the Provision of Wireless Lifeline Service as an Eligible Telecommunications Carrier by TracFone Wireless, Inc. d/b/a Safelink Wireless*, File No. TO-2014-0020, *Order Approving Stipulation and Agreement*, issued August 14, 2013 (\$18,000 fine

10. Holway and KLM request a hearing to address the potential for customer confusion in the state of Missouri and offer evidence of their prior use of the “American Broadband” fictitious name.

11. Correspondence, communications, orders and decisions in this matter should be addressed to:

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12. Holway and KLM have no pending or final adverse judgments or decisions from state or federal regulatory agencies or courts which involve customer service occurring within the three (3) years immediately preceding the filing of this application. Holway and KLM have no over overdue Commission annual reports or assessment fees. Holway and KLM have an interest which is different from that of the general public and which may be adversely affected by a final order arising from the case. Specifically, Holway and KLM’s status as ETCs and regulated Missouri public utilities, along with their use of the “American Broadband” name to provide Lifeline and telecommunications services, demonstrate their unique interest in the subjects of this case. Consequently, Holway and KLM’s intervention and participation in this case will serve the public interest.

for various violations including failure to identify fictitious name); 4 CSR 240-3.570(5)(A); see also Mo. Reg. Vol. 39, No. 5, pp. 687-88 (pending 4 CSR 240-31.130(1)(D)2).

WHEREFORE, Holway and KLM respectfully request that the Commission issue an Order granting this application to intervene, setting this matter for hearing, and granting such other relief as is reasonable in the circumstances.

Respectfully submitted,

/s/ Brian T. McCartney

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Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was served electronically on this 7th day of March, 2014, to:

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