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September 9, 2011

**BY E-MAIL**

Mr. John Van Eschen
Missouri Public Service Commission
200 Madison Street
PO Box 360
Jefferson City, MO 65101

Re: Comments in Case No. TW-2012-0012

Dear Mr. Van Eschen:

I am filing these comments in my name only. Although I represent a number of carriers that have obtained, or are seeking to obtain, Commission designation as an Eligible Telecommunications Carrier ("ETC"), these comments are my own and are not filed on behalf of any of my clients.

I was pleased to take part in Staff's workshop on August 22 at which the proposed ETC rule was discussed. These comments largely mirror the comments and questions I raised at that workshop, as I believe that a record must be made of industry contributions to the implementation of rules that could significantly impact the growth of ETC companies in Missouri. At this point, my comments focus on the points that will impact carriers seeking status as low-income ETCs, that is, companies whose business is to provide service to low income Missourians. That market has largely been ignored by the incumbent carriers, and so these carriers now seeking ETC status intend to provide a service that many Missourians cannot now obtain.

My comments will track the section designations in the rule, assuming that Staff's proposal is adopted.

Overall Comment: These comments assume that the rule changes, if adopted, will operate only prospectively. Thus, any rule changes will not affect pending ETC applications and will not be enforced in any way unless and until the changes have been fully implemented after completion of the administrative rule process. If there is any possibility that Staff or the Commission might attempt to enforce any of the rule changes retroactively, that issue should be raised immediately.

4 CSR 240-3.570(1)(F): the conclusion from this definition is that wireless carriers will continue to be denied access to any benefits from the Missouri Universal Service Fund.

4 CSR 240-3.570(2)(A)(3): The phrases "company management" and "managerial control" must be clearly defined. The absence of any definition would give Staff and the Commission broad discretion to decide how to deal with specific situations, without clear prior guidance to carriers. I should point out that the proposal in the redline is inconsistent with the proposal in the clean copy; that inconsistency must be clarified.

4 CSR 240-3.570(2)(A)(4): the requirement that affiliated companies be identified should be limited to affiliates in the telecom industry. With the proliferation of private equity funds and other types of investment vehicles, many companies share common ownership but are in entirely different industries. For example, a private equity fund may own a company that manufactures and sells dry cleaning supplies and another company that provides telecom service to low-income customers. It would be nonsensical for the second company's ETC application to be found deficient because of its failure to disclose the existence of the dry clearing company. The proposed rule should be revised to limit required disclosure to companies involved in the telecom industry.

4 CSR 240-3.570(2)(A)(26): the information concerning projected subsidies from federal and state universal service funds should be limited to Missouri operations. That may be the intent of the proposal, but as written Staff could demand projections for every state in the country. The Commission lacks jurisdiction and power to enforce such a broad disclosure requirement.

4 CSR 240-3.570(2)(A)(33): It would be useful if the rule could give the industry some guidance as to an acceptable period of non-use before service may be terminated. Alternatively, it would be useful for Staff to announce that the Commission will not exercise jurisdiction on this issue and leave it to the industry's discretion.

4 CSR 240-3.570(3)(D): Assuming that the Commission chooses to continue to require the filing of information from wireless carriers (a power it lacks, although to my knowledge no company seeking ETC status has challenged the Commission's power in that area), this rule should provide some guidance as the "completeness" of the informational filing or information on the company's website. As a minimum there should be a list of the basic issues to be addressed in this filing or on the website.

4 CSR 240-3.570(4): The proposed requirement for low-income ETCs to make annual filings is new. Absent a compelling need to assemble the information sought in this filing, the Commission should consider the additional costs imposed on the carriers. Simply requiring the preparation of a filing every year that does little more than confirm that the information in the original application continues to be accurate does little to advance the Commission's regulatory obligations and does not provide any additional protection to consumers. The Commission may want to compile this information for curiosity's sake, but that does not constitute sufficient justification for each of several dozen ETCs in Missouri to make the filing.

4 CSR 240-3.570(4)(B)(1)(E): the items set forth in this provision do little more than require a sworn statement by a company manager that the information in the original application is still accurate. That does not provide any information crucial to the Commission's role and imposes an unnecessary obligation on the carrier. The only possibly relevant item of information is that the carrier has carried out the annual customer verification process. Requiring a formal filing to confirm that fact is wasteful and drives up carrier costs for no purpose.

Sincerely,

/s/ Mark P. Johnson

Mark P. Johnson
Partner