JOHNSON & SPORLEDER, LLP

Craig S. Johnson
Andrew J. Sporleder
Attorneys at Law

January 4, 2012

The Honorable Brad Lager, Chairman
Senate Committee on Commerce, Consumer Protect, Energy and Environment
State Capitol Room 429
Jefferson City, MO 65101

Re: The December 2011 Missouri Broadband Report of the Missouri Public Service Commission.

Dear Senator Lager:

Chariton Valley Telephone Corporation (Chariton Valley) would like to add its comments to the Missouri Public Service Commission's Missouri December 2011 Broadband Report. As the Report indicates, the Federal Communications Commission's November 18, 2011 Universal Service Fund (USF) and inter-carrier compensation reform decision (FCC Order) will impact Missouri broadband in areas served by rural telephone companies. Chariton Valley would like to take this opportunity to proffer its view of the negative impact the FCC Order will have on the continued deployment and sustenance of broadband in Chariton Valley's wireline and wireless operations in North-Central Missouri.

Chariton Valley is at the forefront of broadband deployment in rural Missouri.[1] Chariton Valley has brought fiber to the premises for many of its customers in Chariton Valley's 18 exchanges, has brought DSL to most of the customers not yet served by fiber, and continues to expand both fiber and DSL. Chariton Valley has invested $16,065,000 in broadband-capable fiber and DSL facilities. Chariton Valley's CLEC (Chariton Valley Telecom Corporation) has invested more than $11,822,000 in fiber for the residents and business in the city of Macon, completing the first fiber-to-the premise (FTTP) over-build of an incumbent local exchange in Missouri. CV Telecom has also edged out its broadband capability to the Macon exchange with a wireless 700 MHz product. Chariton Valley is the majority owner of Missouri RSA No. 5 Partnership, d/b/a Chariton Valley Wireless Services. CV Wireless is presently teamed with Verizon Wireless to bring 4-G/LTE data/broadband capability to its customers. It is estimated CV Wireless' cost for this project will be $8,550,000.

Although the FCC Order was ostensibly designed to assure that robust, affordable vice and broadband service, both fixed and mobile, are available to American's throughout the nation, it will have the opposite effect on Chariton Valley and its customers. In the past Chariton Valley has been encouraged by the state and federal government to invest in broadband. This encouragement consisted of financial support embedded in USF and in Chariton Valley's inter-carrier compensation rates. The FCC Order eliminates much of both types of support for Chariton Valley. The FCC Order conditions

[1] As noted at page 1 of the September 18, 2007 MoPSC Commissioner's Report of Robert Clayton and Steven Gaw on Missouri Broadband, small rural telecommunications carriers have been more aggressive in offering broadband to customers throughout their service territories than their larger rivals.

304 E. High St., Suite 200 • P.O. Box 1670 • Jefferson City, Missouri 65102
573-659-8734 • 573-761-3587 FAX

partial recovery of revenue losses on unsustainable local rate increases for Chariton Valley customers. Universal service principles provide for USF and inter-carrier compensation to contribute to rural costs precisely *because* it is too expensive for rural ratepayers alone to cover the cost of rural service. If Chariton Valley attempts to pass these FCC-imposed losses to its customers, they will leave Chariton Valley. Chariton Valley can't survive without its customers. Chariton Valley will be forced to slow, or perhaps halt, broadband deployment.

Carriers make the large investments necessary to bring broadband to customers. Customers don't. The government doesn't. The FCC Order shifts a huge amount of USF revenues from small rate of return carriers to larger price-cap carriers. In Missouri, the effect is to penalize small carriers who have invested in rural broadband, and to reward larger carriers who have not. In addition, the FCC has attempted to pre-empt past exercises of Missouri's police power as set forth in statutes and in MoPSC decisions. These statutes and decisions provide for rate of return regulation, authorize the MoPSC to strike the appropriate balance between local rates and intrastate inter-carrier compensation rates, provide for the averaging of cost differentials between rural and urban areas, promote universal service at parity in rates, and provide that VoIP providers should pay the same rates for network use as traditional telephone companies.

The revenue losses presented below are the minimum losses the FCC Order will occasion for Chariton Valley. There will be other types of revenue loss associated with the FCC Order not included below.

Impact on Chariton Valley Telephone Corporation

The FCC Order will require Chariton Valley to reduce, over several years, both its interstate and intrastate access rates to zero, and to thereafter give other carriers free use of Chariton Valley's network. During this transition to free use, the FCC Order requires Chariton Valley to charge VoIP providers interstate rates for intrastate calls, while telephone companies pay intrastate rates for intrastate calls. The FCC Order requires this even though Missouri law requires VoIP providers to pay the same rates as traditional voice providers.[2] The FCC order requires Chariton Valley to provide free use of Chariton Valley's network to wireless carriers. Chariton Valley will not be allowed to recover all of these revenue reductions from USF. The FCC has directed they be recovered from local service rates. In addition Chariton Valley USF revenues will also be reduced in other ways. Chariton Valley's high cost loop support will be reduced. The FCC has estimated this reduction alone will cost Chariton Valley $1,027,779 every year. Recovering this reduction, excluding other losses imposed, would require Chariton Valley local customer rate increases of $18 per month. ts Order would reduce Chariton Valley's high cost loop support by $1,027,779 per year. Attempting to recover this reduction from customers would alone require local rates to increase by approximately $18 per month.

A more precise calculation of the total revenue losses imposed by the FCC Order is not available at this time. In order to continue robust broadband deployment, Chariton Valley would have to raise local rates by more than $18 per month to recover the losses imposed by the FCC Order. Local rate increases of this magnitude are simply not feasible. Even at present local rates Chariton Valley has lost 30% of its access lines due to erosion of the rural communities it serves and customers "cutting the

[2] § 392. 550.2 RSMo provides that VoIP intrastate interexchange traffic shall be subject to intrastate exchange access rates. See the MoPSC's December 15, 2010 decision in the arbitration of the interconnection agreement between AT&T Missouri and Global Naps, IO-2011-0057.

cord" to receive service from wireless carriers only.

Impact on Chariton Valley Telecom Corporation

Chariton Valley Telecom has provided fiber to the premises broadband in Macon without the benefit of USF revenues. CV Telecom provides local and broadband services at rates competitive with the incumbent serving Macon. In order to recover the investment in this fiber network, CV Telecom relies on inter-carrier compensation by other carriers paying CV Telecom for use of its network. The FCC Order requires CV Telecom, after 5 years, to give other carriers free use of its network. During the 5 year transition, the FCC Order requires CV Telecom to make the same interstate *and intrastate* inter-carrier rate reductions its competitor ILEC makes. The FCC Order would preempt a Missouri statute that exempts CV Telecom from such further reductions in recognition of CV Telecom' need of these revenues to recover the broadband investment it has made.[3] During this transition, CV Telecom is also required to charge VoIP providers interstate rates on intrastate traffic, despite §392.550.2 RSMo.

CV Telecom would have to raise its local rates by over $14 per month in order to replace this lost revenue. Local rate increases of this magnitude are not sustainable in rural markets where the 2010 census shows a declining population, and an aging population.[4] CV Telecom's ability to recover the cost of its fiber to the premises investment in Macon will be severely impaired.

In addition, CV Telecom will not be eligible for broadband support, which will be known as the Connect America Fund (CAF). The FCC Order provides that, because CV Telecom invested in broadband before the FCC Order, CV Telecom will not be eligible for CAF in the future. The FCC has penalized Macon and CV Telecom because CV Telecom did what Missouri and the FCC encouraged it to do in years past: invest in broadband.

Impact on Chariton Valley Wireless Services

Chariton Valley Wireless Services has been receiving USF support since 2006. CV Wireless receives $1,920,000 per year in federal high cost USF. CV uses this support to expand its network. CV Wireless is investing $8,550,000 to bring 4-G/LTE data/broadband capability to its customers. Instead of CAF continuing this broadband support, the FCC Order will totally eliminate the support over 5 years.

The loss of $1,920,000 per year translates to approximately $30 per month per customer. CV Wireless' current service rates are competitive. CV Wireless cannot raise service rates to this extent and remain competitive, or viable. This loss severely impacts the ability of CV Wireless to pay for its existing network, much less the 4-G/LTE project which would bring broadband to wireless customers. Once again, from Chariton Valley's perspective, the FCC Order penalizes CV Wireless for making the broadband investment the FCC purports to encourage.

---

[3] See 2010 HB 1750; § 392.605.1 RSMo.

[4] The 2010 Census shows declining population rates from the 2000 Census between 6.26 % to 9.64% in different counties. The 2010 Census shows that 30.00% of householders are over the age of 65.

Conclusion

Chariton Valley respectfully suggests that the FCC Order can be viewed as a barrier to future deployment of broadband facilities in rural areas of Missouri served by Chariton Valley. It is also a barrier to maintaining the broadband facilities Chariton Valley has already deployed.

Sincerely,

Craig S. Johnson

cc: Senator Bill Stouffer
Senator Curt Schaefer
Representative Tom Shively
Representative Mike Lair
Representative Paul Quinn
Representative Randy Asbury
Steve Reed, Secretary MoPSC
Kevin Gunn, Chairman MoPSC
James Simon