

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) **File No. DA-2021-0189**
Telecommunications Carrier in additional)
Service Areas for the Purpose of High-Cost)
Support under FCC Auction 904 and Related)
Lifeline Support)

ORDER DIRECTING NOTICE, SETTING INTERVENTION DEADLINE, AND DIRECTING STAFF TO FILE A RECOMMENDATION

Issue Date: January 5, 2021

Effective Date: January 5, 2021

On December 31, 2020, Mercury Wireless Kansas, LLC, filed its application for designation as a wireless Eligible Telecommunications Carrier in additional service areas. The Commission will direct its Data Center to issue notice of the application, set a deadline for requests to intervene, and direct the Staff of the Commission to file a recommendation.

THE COMMISSION ORDERS THAT:

1. The Commission's Data Center shall send notice of this application to all local exchange carriers certificated to provide service in Missouri.
2. Requests to intervene shall be filed with the Commission no later than January 20, 2021.
3. The Staff of the Commission shall file a recommendation no later than February 4, 2021.
4. This order shall be effective when issued.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Morris L. Woodruff, Chief Regulatory Law Judge,
by delegation of authority pursuant
to Section 386.240, RSMo 2016.

Dated at Jefferson City, Missouri,
on this 5th day of January, 2021.

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

In the Matter of the Application of Mercury	)	
Wireless Kansas, LLC DBA Mercury Broadband	)	
For Designation as an	)	File No.
Eligible Telecommunications Carrier in	)	
Additional Service Areas for the	)	
Purpose of High-Cost Support under FCC	)	
Auction 904 and related Lifeline Support.	)	

**APPLICATION OF MERCURY WIRELESS KANSAS, LLC, NOTICE OF NEW BUSINESS
NAME, AND REQUEST FOR WAIVER OF 20 CSR 4240-4.017**

Mercury Wireless Kansas, LLC ("Mercury" the "Company" or "Applicant"), respectfully submits this Application for Designation as an Eligible Telecommunications Carrier ("ETC") in additional service areas pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (the "Act"), Section 54.201 et seq. of the Rules of the Federal Communications Commission ("FCC"), and the Missouri Code of State Regulations ("CSR") Title 20, Sections 4240-2.060 and 4240-31.016.

Mercury has already been designated as an ETC by the Missouri Public Service Commission ("Commission") in a Missouri service area in File No. RA-2019-0094 and now requests that the Commission grant it designation as an ETC in additional service areas in the state of Missouri as specified herein for the purpose of receiving federal universal service support funds pursuant to FCC Auction 904, and under the Lifeline program for low-income consumers (but not the Missouri high-cost support or disabled programs).

The Company also hereby provides notice that it will provide its services under the name "Mercury Broadband" both under its initial ETC designation as well as under the requested additional designation. A separate new name notice filing is being made contemporaneously regarding Mercury's VOIP registration. A copy of its DBA filing with the Missouri Secretary of State is attached hereto as **Exhibit "A"**. Pursuant to 20 CSR 4240-31.015(2), and as stated below,

the Company will continue to comply with all applicable laws and rules relating to its ETC designation, and the Company's contacts in EFIS have been reviewed and are correct. As discussed below, the Company does not yet have Missouri customers to notify of the name change.

As discussed in more detail below, Mercury will meet the statutory and regulatory requirements for designation as an ETC and will be able to offer federal high-cost supported services and related Lifeline services throughout its designated service areas in Missouri, both as previously authorized and as herein proposed. Granting ETC status in additional service areas to Mercury will benefit the public interest by making the Company's services available to a broader range of consumers at an affordable cost. Because the availability of Mercury's services so clearly serves the interests of Missouri consumers, as more fully discussed herein, Mercury respectfully requests that the Commission grant this Application as quickly as possible.

In support of this Application, Mercury provides the following information:

L OVERVIEW OF APPLICANT.

1. Mercury is an Indiana limited liability company authorized to conduct business in Missouri, with principal offices at 1100 Walnut St., Suite 2050, Kansas City, MO 64106. Applicant submitted its Certificate of Good Standing as an exhibit in File No. RA-2019-0094 and incorporates that exhibit herein by this reference. Other primary contact information is as follows:

Email address: matthew.sams@mercurybroadband.com

Telephone: 800-354-4915 ext. 504

Facsimile: 785-748-4624

2. Mercury is in the process of completing its initial buildout in Missouri and expects to provide fixed wireless VOIP pursuant to Commission authorization (File DA-2019-0082) and broadband service over a very stable network in its service areas in the fourth quarter of 2021 that will give customers access to phone and high-speed internet service at an affordable rate. Mercury strives to ensure high quality service and customer service.

3. Mercury's contacts to whom correspondence, communications, and orders and decisions of the Commission should be sent are:

Mercury Wireless Kansas LLC
Attention Matthew Sams
1100 Walnut St., Suite 2050
Kansas City MO 64106

Copy to: Curtis, Heinz, Garrett,
& O'Keefe, P.C.
Attn. Carl J. Lumley
130 S. Bemiston, Suite 200
Clayton, Missouri 63105

4. Mercury has no pending action or final, unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer service or rates, which have occurred within the past three (3) years.

5. Mercury does not have Missouri annual report or assessment fees that are overdue, and it is compliant with all Commission reporting and assessment obligations.

6. Mercury is also a designated ETC in Kansas. Its affiliate Mercury Wireless Indiana, LLC is a designated ETC in Indiana, Michigan, and Ohio and is seeking ETC designation in Illinois. Currently service is only being provided in Kansas and Indiana. Mercury has no other affiliates receiving universal support funding.

II. MERCURY SATISFIES THE COMMISSION'S AND THE FCC'S REQUIREMENTS FOR ETC DESIGNATION FOR VOICE TELEPHONY SERVICE.

1. As in its initial service area, Mercury will provide in the requested additional service area fixed wireless VOIP telephony services and related services, including residential and business broadband internet, unlimited residential and business digital phone, web hosting, email hosting, and custom network design. The Company's services include standalone voice service. Its services are described in detail in **Exhibit "B"**. This exhibit is confidential pursuant to 20 CSR 4240-2.135(2)(A)3&5, containing market-specific and audit information which relates to services offered in competition with others. Mercury will make available Lifeline service, as defined in 47 CFR 54.401, in its service areas and will comply with all requirements of the Lifeline program under 47 CFR Part 54, Subpart E and all regulations of this Commission including 20 CSR 4240-31.015. Mercury's services include low-cost telephony services offered to customers that live in areas with poor cellular and broadband service. Such service will, in addition to improved accessibility and pricing, enable customers access to reliable emergency call capability (i.e., fire, ambulance and police). Lifeline services will be offered at discounted rates based on the determination that the household is receiving other applicable government assistance.

2. In addition to its previously authorized service area, Mercury proposes to provide VOIP and broadband services in the geographical areas for which it has been provisionally selected pursuant to FCC Auction 904, identified in **Exhibit "C"** attached hereto (the "Territory"). Providing service to the rural areas within the Territory will improve the supply/demand gap that currently exists due to the ineffective coverage of other service providers.

3. In order to service the Territory, Mercury will utilize its own infrastructure, as described in **Exhibits "B" and "D"** attached hereto, which are submitted as confidential documents

pursuant to 20 CSR 4240-2.135(2)(A)3&5, containing market-specific and audit information which relates to services offered in competition with others.

4. Mercury is seeking this additional ETC designation to further its participation in FCC Auction 904 and is not seeking ETC designation solely for Lifeline purposes.

5. Mercury certifies it uses and will continue to utilize multiple advertising mediums, such as radio, newspaper, billboards, and social media sites, as well as direct mail, to advertise the availability and prices of its services. Mercury will advertise the availability of its services and charges through media of general distribution in a manner reasonably designed to reach potential Lifeline consumers and make them aware of such offerings, as required by FCC rule including by disclosing: Applicant's name, that the service is Lifeline service, that it is a government assistance program, that the service is non-transferable, and that it is available only to eligible consumers and limited to one discount per household. Applicant will conduct business solely under the name Mercury Broadband and will not use additional service or brand names without authorization from the Commission.

6. Mercury has the ability to remain functional in emergency situations,
to wit:

- a) 24/7/365 network monitoring and dispatchable technicians
- b) 24-hour battery array and portable generators used to avoid service interruption during power outages;
- c) Rerouting broadband for a downed site through a redundant link by using a separate fiber source and separate back haul facilities on all tower systems to provides backup in case main broadband delivery is down;
- d) Increase of bandwidth during emergency spikes. See also **Exhibit "B"**.

7. Mercury certifies that it will comply with the applicable service requirements of 47 CFR 54.201. Mercury further certifies that all funding from the Lifeline program will flow through to Lifeline customers. Mercury has invested and will continue to invest in the technological infrastructure required to maintain customer databases capable of differentiating customers participating in the Lifeline program. Mercury will use the required enrollment form. It will ensure subscribers meet eligibility requirements using the national verifier, confirm the accuracy of identities and addresses, and ensure that only one discount is received per household. It will annually verify a customer's continued eligibility for the Lifeline program and require the customer to change to another form of service if they are no longer eligible. Mercury will provide service to qualifying Lifeline low-income customers at costs capped at the lesser of 10% of its cost or \$15.00 per month and will meet applicable benchmarks. Mercury states that it will offer VOIP service at a rate of \$24.95 per month, which rate will be discounted by \$10.00 in connection with subscription to broadband internet service. All rates, terms and conditions of Applicant's Lifeline service are maintained on a publicly available website, www.mercurybroadband.com/lifeline. Mercury does not have any plans to use agents or independent contractors to sign up subscribers.

8. Mercury will satisfy all applicable consumer protection, consumer privacy, and service quality standards. See <https://www.mercurybroadband.com/legal-policies/>

9. Applicant will comply with the applicable provisions of the Cellular Telecommunications and Internet Associations Consumer Code for Wireless Service.

10. Mercury has an existing policy that any new customer requesting service within a service territory will typically receive it within five (5) business days of inquiry.

11. Applicant will remit all required and collected 911 revenues to the appropriate local authorities.

12. Mercury is financially sound and technically capable of expanding its voice telephony services and territory. It was previously awarded \$1.6 million in CAF II funds to support services in Missouri. It has now been provisionally awarded almost \$4.3 million in FCC Auction 904 funds to support services in the requested additional service areas. It will be supported by its parent, Mercury Wireless, Inc. Confidential financial information is submitted herewith as Exhibit "E". This is confidential pursuant to 20 CSR 4240-2.135(2)(A)3&5, containing market-specific and audit information which relates to services offered in competition with others.

13. Mercury does not provide directory assistant services, operator services or landline interexchange services, but customers have access to such services provided by others.

III. MERCURY SATISFIES THE COMMISSION'S AND THE FCC'S REQUIREMENTS FOR ETC DESIGNATION FOR HIGH-COST SUPPORT.

1. Mercury will comply with all the requirements as set forth in 47 CFR Part 54, Subpart C. To that end, Mercury will comply with the applicable service requirements of 47 CFR 54.201(d), as more fully described above.

2. Designation of Mercury as an ETC for federal high-cost support purposes in additional service areas will further the goals of FCC Auction 904 and will benefit Missouri consumers. Specifically, the Company will offer broadband and IP voice over fixed wireless systems in the new areas. In much of Applicant's proposed additional Territory, access to broadband Internet

service is unavailable, unaffordable, or unreliable. Mercury understands, as do the FCC and the Commission, that accessible and reliable internet connectivity is not only popular, but in many respects, it is a necessary component of daily life of family households, businesses, and community anchor institutions. Mercury will help make broadband available to such homes, businesses, and community anchor institutions in areas that do not, or would not otherwise, have broadband.

3. Applicant seeks ETC status in the additional service areas described herein for the purposed of developing and operating services pursuant to FCC Auction 904, as described in **Exhibit "B"**. It has not obtained any FCC waiver.

IV. MERCURY REPOSES TO REGULATORY AND OTHER INFORMATION REQUIRED BY RULE.

1. Mercury is a wholly owned subsidiary of Mercury Wireless, Inc. Owners owning a 10% or greater interest in Applicant (indirectly, through Mercury Wireless, Inc.) are as follows:
Garrett Wiseman and Keith Busse

2. Applicants' Officers and Directors (of Mercury Wireless, Inc.) are as follows:

Garrett Wiseman	Chief Executive Officer and Director
Blake Wiseman	Chief Commercial Officer
Angela Tenbrink	Chief Financial Officer
Matthew Sams	Chief of Staff
Darryl Cain	Chief Operating Officer
Keith Busse	Director
Catherine Newsham	Director
Peter Carson	Director

3. Applicant shares common ownership and management with Mercury Wireless, Inc a Kansas corporation.

4. Mercury Wireless, Inc. and its other subsidiaries offer telecommunications services, VOIP, and wireless services in other states as explained above, and all are in compliance with their USF contribution obligations.

5. Applicant continues to commit to notify the Commission of any changes to Applicant's contact information.

6. Neither Mercury, nor any of the aforementioned affiliates or owners, have had an action brought against them in the last ten (10) years by any state or federal regulatory or law enforcement agency involving fraud, deceit, perjury, stealing, or omissions of material fact in connection with any commercial transaction.

7. Applicant seeks waiver of rule 20 CSR240-4.017 for good cause to avoid a delay of 60 days to make this filing and accelerate the introduction of its services in the new service areas and declares that it has had no communication with the office of the Commission within the prior 150 days regarding any substantive issue likely to be germane to this proceeding.

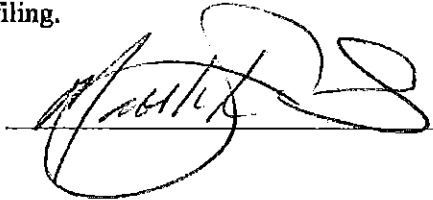
WHEREFORE, Mercury respectfully requests that the Commission as expeditiously as possible issue an order designating the Applicant as an ETC in the additional service areas specified above for the purpose of receiving federal support in connection with FCC Auction 904 and related support for the provision of Lifeline services, accepting Mercury's notice of new business name, waiving rule 20 CSR 4240-4.017, and granting such other and further relief as the Commission deems appropriate.

STATE OF KANSAS)
) SS
COUNTY OF JOHNSON)

Affidavit

I, Matthew Sams, a natural person, do hereby swear and affirm that I am an officer of Mercury Wireless Kansas, LLC, the applicant in the above Application ("Applicant"), that the information and statements contained in this application are true and correct to the best of my knowledge and belief.

By signing this form, I hereby certify that neither I, nor any other members of this filing party, has had communications with a Commissioner, Commissioner Advisor, Regulatory Law Judge, member of the General Counsel or any member of their support team in the 150 days prior to the filing date of this application regarding any substantive issue included in this filing.



Subscribed and sworn to before me this 30th day of December, 2020. *



Notary Public



Respectfully submitted,

CURTIS, HEINZ,
GARRETT & O'KEEFE, P.C.

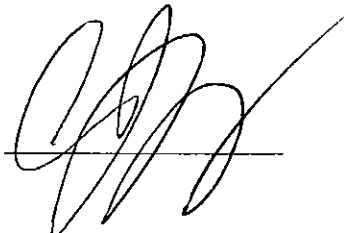


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(314) 725-8789 (Fax)
clumley@chgolaw.com

Attorneys for Mercury Wireless Kansas, LLC

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing was emailed, faxed, or mailed by U.S. Mail, postage paid,
this 31 day of December 2020, to the persons shown on the attached list.



Missouri Public Service Commission
Office General Counsel
200 Madison Street, Suite 800
P.O. Box 360
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GenCounsel@psc.mo.gov

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opcservice@ded.mo.gov

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

**WITNESS my hand and seal of the Public Service Commission,
at Jefferson City, Missouri, this 5th day of January, 2021.**




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

January 5, 2021

File/Case No. DA-2021-0189

**Missouri Public Service
Commission**

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Mercury Broadband

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**Missouri Public Service
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Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,



**Morris L. Woodruff
Secretary**

Distributed to all Local Exchange Carriers Certified to Provide Service in Missouri.

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.