

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held at its office in  
Jefferson City on the 17<sup>th</sup> day of  
November, 2016.

In the Matter of the Application for Temporary       )  
Waiver of the 4 CSR 240-31.120(1)(A) State       )  
Lifeline Program Eligibility Criteria                       )

**File No. IO-2017-0120**

**ORDER GRANTING TEMPORARY WAIVER OF CERTAIN STATE  
LIFELINE PROGRAM ELIGIBILITY CRITERIA**

Issue Date: November 17, 2016

Effective Date: December 2, 2016

On October 25, 2016, a large group of telecommunications companies filed a joint application asking the Commission to temporarily waive application of the Commission's state Lifeline Program eligibility criteria when upcoming changes to the federal Lifeline Program eligibility criteria become effective, so that only those state requirements consistent with the revised federal criteria will apply until the Commission updates 4 CSR 240-31.120(1)(A) to again mirror the federal criteria.

The joint application explains that the Federal Communications Commission (FCC) has recently modified its rules to change the eligibility criteria to qualify consumers for federal Lifeline benefits. Missouri's regulations for eligibility for the state Lifeline program match the old federal criteria, but not the newly revised criteria. The Commission's Staff is working with the telecommunications companies to revise the Commission's regulation to once again match the federal regulation, but those revisions may not be in place before the revised federal regulation takes effect, which could be as soon as December 1, 2016.

The exact date when the revised federal regulation will take effect is not known, as it is still subject to a petition for reconsideration. Because of that uncertainty, the joint applicants ask the Commission to waive application of those portions of the state regulation that establish eligibility criteria different from the federal criteria, with that waiver to become effective when the revised federal regulation becomes effective.

In addition, the joint applicants expresses concern about a possible conflict between a Lifeline benefit port freeze included in the FCC rules<sup>1</sup> and a state requirement that an ETC make voice telephony service available to all subscribers in its service area upon reasonable request. They ask the Commission to waive the state requirement to make state and federal Lifeline service available to customers subject to a federal port freeze. Again, the joint applicants ask that the waiver become effective whenever the federal rule change becomes effective.

In response to the joint application, the Commission directed its Staff to file a recommendation. Staff filed that recommendation on November 8. Staff generally supports the requested waivers of state eligibility requirements, specifically advising the Commission to waive application of 4 CSR 240-31.120(1)(A)(4, 6, & 7). Staff recommends that the waiver be made effective on December 2, 2016, unless the FCC waives application of its new rules in Missouri before then. If the FCC does grant a waiver of application of its rules, then the waiver of the Commission's rules would go into effect when the FCC's waiver expires. The state waivers would remain in effect until the Commission amends its rules to comport with the federal changes. Staff advises the Commission to not waive its

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<sup>1</sup> The federal Lifeline port freeze would forbid a federal lifeline provider from receiving reimbursement through the Lifeline program for service to a subscriber who used the Lifeline benefit to enroll in a qualifying Lifeline supported voice telephony service offering with another Lifeline provider within the previous 60 days.

rule related to the FCC's Lifeline Port Freeze rule as Staff does not believe the federal rule will conflict with state requirements.

Upon receiving Staff's recommendation, the Commission ordered that any party wishing to respond to Staff's recommendation do so no later than November 15. No such response has been filed.

Commission Rule 4 CSR 240-31.130(4)(D) allows the Commission to grant a waiver of any provision of 4 CSR 240-31.010 through 4 CSR 240-31.130 for good cause shown. The Commission finds that because of the looming conflict with federal regulations, there is good cause to waive application of Commission Rule 4 CSR 240-31.120(1)(A)(4, 6, & 7) as requested by the joint applicants and as recommended by Staff. The Commission agrees with Staff that waiver of 4 CSR 240-31.130(2)(C) is not necessary as that rule does not conflict with revised federal requirements. If the FCC does act before December 1 to delay its new eligibility criteria, making the waiver granted by this order unnecessary, Staff shall promptly inform the Commission.

**THE COMMISSION ORDERS THAT:**

1. Application of the eligibility criteria found in Commission Rule 4 CSR 240-31.120(1)(A)(4, 6, & 7) is waived, effective December 2, 2016, unless the Federal Communications Commission waives application of its new rules in Missouri before that date. If the Federal Communications Commission does grant such a waiver, then the waiver of the state eligibility criteria shall go into effect at the expiration of the Federal Communications Commission's waiver.

2. The waiver granted in paragraph 1 shall remain in effect until the Commission amends its rules to comport with the federal changes to the Lifeline eligibility criteria.

3. The waiver granted in paragraph 1 shall apply to all Missouri Eligible Telecommunications Companies.

4. The requested waiver of Commission Rule 4 CSR 240-31.130(2)(C) is denied.

5. This order shall become effective on December 2, 2016.

**BY THE COMMISSION**



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

Morris L. Woodruff  
Secretary

Hall, Chm., Stoll, Kenney, Rupp, and  
Coleman, CC., concur.

Woodruff, Chief Regulatory Law Judge

**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 17<sup>th</sup> day of November 2016.**



  
**Morris L. Woodruff**  
**Secretary**

**MISSOURI PUBLIC SERVICE COMMISSION**

**November 17, 2016**

**File/Case No. IO-2017-0120**

**Missouri Public Service  
Commission**

Staff Counsel Department  
200 Madison Street, Suite 800  
P.O. Box 360  
Jefferson City, MO 65102  
staffcounselservice@psc.mo.gov

**Office of the Public Counsel**

James Owen  
200 Madison Street, Suite 650  
P.O. Box 2230  
Jefferson City, MO 65102  
opcservice@ded.mo.gov

**Alma Telephone Company**

Craig S Johnson  
2420 Hyde Park Road, Suite C  
Jefferson City, MO 65109  
cj@cjaslaw.com

**American Broadband (Holway  
Telephone)**

W R England  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
trip@brydonlaw.com

**American Broadband (Holway  
Telephone)**

Brian T McCartney  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
bmccartney@brydonlaw.com

**American Broadband (KLM  
Telephone)**

W R England  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
trip@brydonlaw.com

**American Broadband (KLM  
Telephone)**

Brian T McCartney  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
bmccartney@brydonlaw.com

**AT&T Missouri**

Leo J Bub  
909 Chestnut St., Room 3518  
St. Louis, MO 63101  
leo.bub@att.com

**CenturyLink (CenturyTel of  
Missouri)**

Becky O Kilpatrick  
100 CenturyLink Drive  
Monroe, LA 71201  
becky.kilpatrick@centurylink.com

**CenturyLink (CenturyTel of  
Northwest Arkansas)**

Becky O Kilpatrick  
100 CenturyLink Drive  
Monroe, LA 71201  
becky.kilpatrick@centurylink.com

**CenturyLink (Embarq Missouri)**

Becky O Kilpatrick  
100 CenturyLink Drive  
Monroe, LA 71201  
becky.kilpatrick@centurylink.com

**CenturyLink (Spectra)**

Becky O Kilpatrick  
100 CenturyLink Drive  
Monroe, LA 71201  
becky.kilpatrick@centurylink.com

**Chariton Valley Telecom  
Corporation**

Craig S Johnson  
2420 Hyde Park Road, Suite C  
Jefferson City, MO 65109  
cj@cjaslaw.com

**Chariton Valley Telephone  
Corporation**

Craig S Johnson  
2420 Hyde Park Road, Suite C  
Jefferson City, MO 65109  
cj@cjaslaw.com

**Choctaw Telephone Company**

Craig S Johnson  
2420 Hyde Park Road, Suite C  
Jefferson City, MO 65109  
cj@cjaslaw.com

**Citizens Telephone Company of  
Higginsville Missouri**

W R England  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
trip@brydonlaw.com

**Citizens Telephone Company of  
Higginsville Missouri**

Brian T McCartney  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
bmccartney@brydonlaw.com

**Craw-Kan Telephone  
Cooperative, Inc.**

W R England  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
trip@brydonlaw.com

**Craw-Kan Telephone  
Cooperative, Inc.**

Brian T McCartney  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
bmccartney@brydonlaw.com

**Ellington Telephone Company**

W R England  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
trip@brydonlaw.com

**Ellington Telephone Company**

Brian T McCartney  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
bmccartney@brydonlaw.com

**FairPoint Communications**

Larry W Dority  
101 Madison, Suite 400  
Jefferson City, MO 65101  
lwdority@sprintmail.com

**Farber Telephone Company**

W R England  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
trip@brydonlaw.com

**Farber Telephone Company**

Brian T McCartney  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
bmccartney@brydonlaw.com

**Fidelity Communication  
Services I, Inc.**

W R England  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
trip@brydonlaw.com

**Fidelity Communication  
Services I, Inc.**

Brian T McCartney  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
bmccartney@brydonlaw.com

**Fidelity Telephone Company**

W R England  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
trip@brydonlaw.com

**Fidelity Telephone Company**

Brian T McCartney  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
bmccartney@brydonlaw.com

**Goodman Telephone Company,  
Inc.**

W R England  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
trip@brydonlaw.com

**Goodman Telephone Company,  
Inc.**

Brian T McCartney  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
bmccartney@brydonlaw.com

**Granby Telephone Company**

W R England  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
trip@brydonlaw.com

**Granby Telephone Company**

Brian T McCartney  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
bmccartney@brydonlaw.com

**Green Hills**

**Telecommunications Services**  
W R England  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
trip@brydonlaw.com

**Green Hills  
Telecommunications Services**

Brian T McCartney  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
bmccartney@brydonlaw.com

**Green Hills Telephone  
Corporation**

W R England  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
trip@brydonlaw.com

**Green Hills Telephone  
Corporation**

Brian T McCartney  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
bmccartney@brydonlaw.com

**GRM Networks**

W R England  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
trip@brydonlaw.com

**GRM Networks**

Brian T McCartney  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
bmccartney@brydonlaw.com

**IAMO Telephone Company**

W R England  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
trip@brydonlaw.com

**IAMO Telephone Company**

Brian T McCartney  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
bmccartney@brydonlaw.com

**Kingdom Telephone Company**

W R England  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
trip@brydonlaw.com

**Kingdom Telephone Company**

Brian T McCartney  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
bmccartney@brydonlaw.com

**Le-Ru Telephone Company**

W R England  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
trip@brydonlaw.com

**Le-Ru Telephone Company**

Brian T McCartney  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
bmccartney@brydonlaw.com

**LTC Networks**

W R England  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
trip@brydonlaw.com

**LTC Networks**

Brian T McCartney  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
bmccartney@brydonlaw.com

**Mark Twain Communications  
Company**

W R England  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
trip@brydonlaw.com

**Mark Twain Communications  
Company**

Brian T McCartney  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
bmccartney@brydonlaw.com

**Mark Twain Rural Telephone  
Company**

W R England  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
trip@brydonlaw.com

**Mark Twain Rural Telephone  
Company**

Brian T McCartney  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
bmccartney@brydonlaw.com

**McDonald County Telephone  
Company**

W R England  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
trip@brydonlaw.com



**McDonald County Telephone Company**

Brian T McCartney  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
bmccartney@brydonlaw.com

**Miller Telephone Company**

W R England  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
trip@brydonlaw.com

**Miller Telephone Company**

Brian T McCartney  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
bmccartney@brydonlaw.com

**Missouri Public Service Commission**

Cully Dale  
200 Madison Street, Suite 800  
P.O. Box 360  
Jefferson City, MO 65102  
cully.dale@psc.mo.gov

**MoKan Dial, Inc.**

Craig S Johnson  
2420 Hyde Park Road, Suite C  
Jefferson City, MO 65109  
cj@cjaslaw.com

**New Florence Telephone Company**

W R England  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
trip@brydonlaw.com

**New Florence Telephone Company**

Brian T McCartney  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
bmccartney@brydonlaw.com

**New London Telephone Company**

W R England  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
trip@brydonlaw.com

**New London Telephone Company**

Brian T McCartney  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
bmccartney@brydonlaw.com

**Northeast Missouri Rural Telephone Company**

W R England  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
trip@brydonlaw.com

**Northeast Missouri Rural Telephone Company**

Brian T McCartney  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
bmccartney@brydonlaw.com

**Orchard Farm Telephone Company**

W R England  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
trip@brydonlaw.com

**Orchard Farm Telephone Company**

Brian T McCartney  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
bmccartney@brydonlaw.com

**Oregon Farmers Mutual Telephone Company**

W R England  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
trip@brydonlaw.com

**Oregon Farmers Mutual Telephone Company**

Brian T McCartney  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
bmccartney@brydonlaw.com

**Otelco Mid-Missouri LLC**

Craig S Johnson  
2420 Hyde Park Road, Suite C  
Jefferson City, MO 65109  
cj@cjaslaw.com

**Ozark Telephone Company**

W R England  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
trip@brydonlaw.com

**Ozark Telephone Company**

Brian T McCartney  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
bmccartney@brydonlaw.com

**Peace Valley Telephone Co., Inc.**

W R England  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
trip@brydonlaw.com

**Peace Valley Telephone Co., Inc.**

Brian T McCartney  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
bmccartney@brydonlaw.com

**Rock Port Telephone Company**

W R England  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
trip@brydonlaw.com

**Rock Port Telephone Company**

Brian T McCartney  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
bmccartney@brydonlaw.com

**Seneca Telephone Company**

W R England  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
trip@brydonlaw.com

**Seneca Telephone Company**

Brian T McCartney  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
bmccartney@brydonlaw.com

**Steelville Telephone Exchange, Inc.**

W R England  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
trip@brydonlaw.com

**Steelville Telephone Exchange, Inc.**

Brian T McCartney  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
bmccartney@brydonlaw.com

**Stoutland Telephone Company**

W R England  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
trip@brydonlaw.com

**Stoutland Telephone Company**

Brian T McCartney  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
bmccartney@brydonlaw.com

**Windstream Iowa Communications, LLC**

Larry W Dority  
101 Madison, Suite 400  
Jefferson City, MO 65101  
lwdority@sprintmail.com

**Windstream Missouri, LLC**

Larry W Dority  
101 Madison, Suite 400  
Jefferson City, MO 65101  
lwdority@sprintmail.com

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

***Sincerely,***



***Morris L. Woodruff  
Secretary***

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