BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Proposed New Rule 4 CSR 240-3.570 Regarding Eligible Telecommunications Carrier Designations for Receipt of Federal Universal Service Fund Support.	)))))	Case No. TX-2006-0169

SUPPLEMENTAL COMMENTS
OF SPECTRA COMMUNICATIONS GROUP, LLC d/b/a CENTURYTEL
AND CENTURYTEL OF MISSOURI, LLC

COME NOW Spectra Communications Group, LLC d/b/a CenturyTel ("Spectra") and CenturyTel of Missouri, LLC ("CenturyTel-Missouri"), and respectfully submit the following Supplemental Comments on proposed new rule 4 CSR 240-3.570.

In reviewing the Commission's rule as published in the Missouri Register and in filing their initial comments, Spectra and CenturyTel-Missouri never interpreted the proposed rule as intending to apply to incumbent local exchange companies (ILECs), but rather only to ***new*** wireless and competitive wireline eligible telecommunications carriers (ETC's). Spectra and CenturyTel-Missouri agreed with the Commission's basic approach and filed initial comments supporting the proposed rule as originally published. There are several important reasons for this.

First, the Federal Communications Commission's (FCC's) *ETC Designation Order*[1] itself was focused only on wireless and competitive carriers, not incumbents, and therefore the proposed rule--as originally published--was wholly consistent with the approach taken by the FCC. Second, ILECs currently are already heavily regulated by existing quality of service and customer protection rules at both the state and federal levels, in addition to operating entirely pursuant to Commission-approved tariffs and

[1] *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket 96-45, Report and Order, 20 FCC Rcd 6371 (2005).

carrier of last resort obligations, while wireless carriers are not. Moreover, as noted by the Staff in its filing of January 9, 2006 and in other comments made at the hearing, ILECs with ETC status currently provide this Commission with detailed ETC accounting documentation pursuant to FCC-mandated accounting rules on an annual basis while currently wireless carriers do not. Third, and perhaps most importantly, ILECs have extensive infrastructure *already in place* and are *already serving* throughout their territories as required by Section 214(e) of the Federal Telecommunications Act, whereas wireless carriers predominately are not. Clear evidence of this, for example, is found in U. S. Cellular's ETC application case, Case No. TO-2005-0384.

This is why the FCC found the need for *wireless* providers (but not incumbents) to submit a five-year network build-out plan. In the case where a wireless carrier at the time of its ETC application is not serving throughout its requested ETC service area, this five-year requirement provides the Commission with the blue print on how, eventually and in phases, the wireless carrier will bring its network infrastructure up to par with the existing incumbent with respect to service area coverage and the ubiquitous service requirement of Section 214(e). The annual reporting requirements contained in the rule as originally proposed further provide the Commission with status reports and updates on how the wireless carrier is actually fulfilling its service area commitments of its initial five-year plan. Again, in the case of the incumbent, the infrastructure and broad Commission authority already is there; in the case of the new wireless carrier ETC, they are not.

For these reasons, Spectra and CenturyTel-Missouri urges the Commission to reject Staff's attempt to broaden the rule's language to include incumbents. On this issue,

Spectra and CenturyTel-Missouri concur in the filed comments submitted and the statements made at hearing by AT & T Missouri. Of significant concern, should the Commission ultimately adopt Staff's broad-brush approach, is the issue of conflicting requirements under the new ETC rule with those already in place for incumbents. Staff has suggested in its January 9, 2006 filing that "Staff recommends a generic statement be added to 4 CSR 240-3.570 to clarify that in the even(t) (*sic*) there is a discrepancy for ILECs or CLECs between 4 CSR 240-3.570 and another commission rule, the other commission rule contains the applicable requirement". Spectra and CenturyTel-Missouri would suggest that in the event that the ETC rule will also be made applicable to incumbents, that a much stronger "generic statement" be included in the new rule which not only takes into account conflicts with other Commission rules, but also conflicts between the ETC rule and an incumbent's Commission-approved tariffs. The Commission-approved tariffs should prevail.

With respect to Staff's first round of proposed language in section 24 of the rule respecting improving "coverage, service quality or capacity in Missouri" and U.S. Cellular's position that such language is more restrictive than the Federal Act, Spectra and CenturyTel are not advocating that the Commission create a federal/state preemption or conflict situation. However, in their view the Commission should be well within its authority to take steps at the time of an ETC application to insure adequate minimum coverage and system capacity of wireless carriers receiving USF dollars. The language proposed in the rule as published is, in effect, only an attempt to address technological differences and the way service is provisioned as between wireless and wireline carriers, as well as taking into account the current status of the carriers' respective networks

within the ETC service area. The focus is, in reality, one of timing and the existing state of the subject wireless infrastructure. In the early years where there is significant lack of wireless infrastructure, the emphasis *should* be placed on improving coverage, service quality and capacity, as opposed to the USF dollars going for maintenance of existing facilities. The goals of universal service are not being served if a new wireless carrier primarily uses the USF dollars it receives to only or primarily, for example, improve its existing service primarily in urban areas. Only later, after the wireless infrastructure has been put into place into high-cost, rural areas, should the focus shift to using USF dollars primarily for system maintenance. By way of analogy, incumbents have already purchased a car and are now spending money on insurance, gas, and maintenance; wireless carriers have yet to even purchase the car. The Commission currently has all the necessary authority it needs to direct incumbents to expand and improve their networks, if needed; the rule language as originally proposed is needed to insure the Commission has the same authority in the case of wireless ETCs.

Finally, in suggesting that the Commission consider strengthening its proposed rule to bring wireless carriers under the provisions of the Commission's Chapter 33 Service and Billing Practices rules, Spectra and CenturyTel-Missouri are not arguing "for parity simply for parity's sake". Aside from the fact that the incumbents currently are required to follow these rules, the Commission in the ETC context should provide wireless customers with the same protections afforded wireline customers, for example, with respect to non-discrimination, notice of rate increases, 21-day payment allowance, restrictions on penalties imposed for delinquent accounts, full disclosure of terms and conditions, restrictions on deposits, initial notice of customer rights, discontinuation of

service, and customer complaint procedures. The parity sought here is for the customers, not the carriers. To the extent that some of Chapter 33 rules cannot be made to apply to wireless carriers due to technological or service provisioning reasons, the Commission always has the power, either generically in its ETC rule (similar to Staff's treatment of the provisions of the Chapter 32 requirements) or specifically under the variance provision of 4 CSR 240-33.100, to make the necessary and appropriate adjustments.

As noted in the hearing, *accountability* is key. Not surprisingly, the wireless carriers are urging the Commission to refrain from imposing anything beyond the most rudimentary requirements on wireless carriers, while retaining and imposing additional requirements on incumbents. The Commission's proposed rule, as originally published, strikes the appropriate balance in terms of the amount of regulation and accountability necessary, and with the addition of Chapter 33's provisions, strikes the appropriate balance for both wireless and wireline customers.

Respectfully submitted,

/s/ Charles Brent Stewart

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was sent via electronic transmission to the General Counsel's Office and the Office of the Public Counsel this 17th day of January, 2006.

/s/ Charles Brent Stewart