

1 STATE OF MISSOURI  
2 PUBLIC SERVICE COMMISSION  
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6 TRANSCRIPT OF PROCEEDINGS  
7 Prehearing Conference  
8 July 6, 2005  
9 Jefferson City, Missouri  
Volume 1  
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12 Application of Chariton Valley )  
Telecom Corporation for Designation )  
13 as a Telecommunications Carrier ) Case No.  
Eligible for Federal Universal Service ) TO-2005-0423  
14 Support Pursuant to Section 254 of the )  
Telecommunications Act of 1996 )  
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17 KENNARD L. JONES, Presiding,  
REGULATORY LAW JUDGE.  
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21 REPORTED BY:  
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1 P R O C E E D I N G S

2 JUDGE JONES: This is Case No.  
3 TO-2005-0423, application of Chariton Valley Telecom  
4 Corporation for designation as a telecommunications  
5 carrier eligible for federal universe service support  
6 pursuant to Section 254 of the Telecommunications Act of  
7 1996. I am Kennard Jones. I'll be presiding over this  
8 matter.

9 At this time I'll take entries of  
10 appearance, beginning with Chariton Valley.

11 MR. JOHNSON: Thank you, your Honor. Craig  
12 Johnson and Lisa Chase, Andereck, Evans, Milne, Peace &  
13 Johnson, 700 East Capitol, Jefferson City, Missouri 65102,  
14 for the Applicant, Chariton Valley Telecom Corporation.

15 JUDGE JONES: And from the Staff of the  
16 Commission?

17 MR. POSTON: Marc Poston appearing for the  
18 Staff of the Missouri Public Service Commission.

19 JUDGE JONES: And from Spectra?

20 MR. STEWART: Charles Brent Stewart, law  
21 firm of Stewart & Keevil, LLC, 4603 John Garry Drive,  
22 Suite 11, Columbia, Missouri 65203, appearing on behalf of  
23 Spectra Communications Group, LLC, doing business as  
24 CenturyTel.

25 JUDGE JONES: And from the Office of Public

1 Counsel?

2 MR. MILLS: Lewis Mills and Michael F.  
3 Dandino appearing on behalf of the Office of the Public  
4 Counsel and the public. Address is Post Office Box 2230,  
5 Jefferson City, Missouri 65102.

6 JUDGE JONES: Thank you. Is there anyone  
7 else that needs to enter an appearance today?

8 Okay. Well, an evidentiary hearing has  
9 been requested by the Office of Public Counsel. In that  
10 regard, I will leave you-all to talk about a proposed  
11 procedural schedule and dates of hearings, and we'll talk  
12 more about the structure of that hearing or I should say  
13 procedural schedule after we talk about CenturyTel's  
14 application to intervene.

15 So CenturyTel wants to intervene because it  
16 finds there are problems with Chariton Valley's  
17 application?

18 MR. STEWART: I wouldn't put it that way.

19 JUDGE JONES: Okay. How would you put it?

20 MR. STEWART: Let me start by trying to  
21 clarify something that may just be a miscommunication  
22 between Spectra and Chariton Valley. I don't think we  
23 said in our application to intervene, and I'm certainly  
24 not saying now, that in order -- if Chariton Valley gets  
25 ETC status or as a condition of them getting ETC status in

1 the Macon exchange that they have to serve Spectra's  
2 entire service area. In fact, I went back and I checked  
3 what I filed, and I think all I did was just cite the  
4 statute and point out that Chariton Valley had only  
5 requested to serve one exchange.

6 I don't know if having that -- saying it  
7 this way resolves Chariton Valley's problem with our  
8 intervention, but I did want to get that clarification out  
9 of the way.

10 I do have several grounds for intervention,  
11 additional grounds for intervention since I think Chariton  
12 Valley did claim in their suggestions in opposition that  
13 we had not stated sufficiently our grounds. I'll run  
14 through them very briefly and then be happy to go back and  
15 discuss those further.

16 First, Spectra is the incumbent local  
17 exchange carrier for the Macon exchange. Along those  
18 lines, it's currently -- it currently has the carrier of  
19 last resort obligation for the Macon exchange.

20 Secondly, Spectra is the only carrier  
21 currently receiving USF funding as an ETC for the Macon  
22 exchange.

23 Third, Spectra is the largest USF recipient  
24 in the state of Missouri due to the nature of its rural  
25 geographic service area throughout the state.

1                   I do take issue with something Chariton  
2 Valley said. Spectra is, in fact, a rural telephone  
3 company as that term is defined in both the federal  
4 statutes and the FCC rules, and the Macon exchange is, in  
5 fact, a rural area again under the rules and definitions.  
6 And I'd even cite you to Chariton Valley's June 20th  
7 amendment to its application where it seems to concede  
8 that the Macon exchange is, in fact, a rural area.

9                   Spectra -- being the largest USF recipient  
10 in the state, Spectra has been and remains concerned that  
11 the Commission not deal with this recent spate of ETC  
12 applications in a piecemeal fashion, but rather move to  
13 develop a cogent and sound policy on all ETC applications  
14 based on the minimum guidelines set forth in the  
15 March 17th, 2004 FCC Order, something similar to the  
16 guidelines now being proposed and still developing  
17 Missouri ETC rulemaking and, of course, the requirements  
18 of Section 214(e) (2) and (e) (5) and echoed in the Code of  
19 Federal Regulations under Part 54.

20                   With the exception of the Northwest  
21 Cellular case in which our intervention request is still  
22 currently pending, Spectra has been granted intervention  
23 in all recent ETC application cases before this Commission  
24 and is actively participating in the rulemaking process.

25                   Spectra's intervention request in this

1 particular case is especially compelling, especially  
2 because if Chariton Valley's application is granted, the  
3 Commission's order in this case necessarily will involve a  
4 redefinition of Spectra's existing ETC service area.  
5 Again, I'd cite you to Section 214(e) (5) and the code on  
6 54.207, and finally to Chariton Valley's amendment to its  
7 application in which it seems to recognize that fact.

8                   If after undergoing the fact-specific  
9 public interest analysis required by Section 214(e) (2),  
10 the FCC's March 2004 Order, if after all of that Spectra's  
11 existing ETC service area is to be redefined as requested  
12 by Chariton Valley, simply put, Spectra feels it has to be  
13 represented and be able to fully participate in this  
14 proceeding as a party. It's our service area that's being  
15 redefined.

16                   I've already mentioned the clarification.  
17 Again, we are not asserting and have not asserted that  
18 Chariton Valley must serve Spectra's entire study area in  
19 order to qualify for ETC status. All we're saying is,  
20 even with the subsequent FCC rule cited by Chariton Valley  
21 with respect to the Spectra disaggregation plan, Chariton  
22 Valley still has to undergo a fact-specific public  
23 interest analysis as a threshold requirement before you  
24 ever get to the question or the issues involved with the  
25 amount of ETC funding available or which might be

1 available to Chariton Valley under Spectra's  
2 disaggregation plan.

3 Just because Spectra has a disaggregation  
4 plan does not necessarily mean that Chariton Valley  
5 automatically is somehow entitled to ETC status and that  
6 Spectra's existing ETC service area should be redefined.  
7 Those are -- those issues are fact-specific issues that  
8 the Commission must address as part of its public interest  
9 analysis in this case, and in those issues Chariton  
10 Valley, of course, bears the burden of proof.

11 The mere fact that Chariton Valley has now  
12 raised the issue of Spectra's disaggregation plan is, in  
13 our opinion, yet another reason for Spectra to be allowed  
14 to participate as a party in this case. It is, after all,  
15 Spectra's disaggregation plan.

16 In summary, we should be permitted to  
17 intervene as we have in all other recent ETC cases,  
18 especially here where we are the incumbent and currently  
19 the only ETC in the Macon exchange, where our existing ETC  
20 service area could ultimately be redefined as a result of  
21 this case after going through a Commission order here and  
22 then subsequent action at the FCC, and where apparently as  
23 here Spectra's disaggregation plan obviously will be an  
24 issue and mostly one of fact to be hashed out during the  
25 hearing



1                   Thank you.

2                   JUDGE JONES: Okay. I'm going to let you  
3 respond, Chariton Valley, but I want to ask you  
4 specifically, does an Order granting the funding  
5 necessitate redefinition of the service area?

6                   MR. JOHNSON: No, I don't believe that's a  
7 correct statement, your Honor.

8                   JUDGE JONES: So you disagree with  
9 Spectra's conclusion?

10                  MR. JOHNSON: Yes.

11                  JUDGE JONES: Is there any other response  
12 you want to make?

13                  MR. JOHNSON: Yes. I had interpreted their  
14 intervention to be exclusively based upon the proposition  
15 that we had to serve in their entire study area, which  
16 consists of 107 exchanges. I agree with Mr. Stewart that  
17 in the past an incumbent has always been allowed in  
18 Missouri's ETC proceedings to intervene.

19                  With the additional grounds that he stated  
20 that weren't in the motion, it looks to me that they do  
21 have grounds for intervention if you decide to consider  
22 the verbal statements as supplementing the intervention.  
23 I was just wanting to go on record stating that the  
24 perceived single ground of their intervention was legally  
25 incorrect and, therefore, in and of itself did not justify

1 intervention.

2 JUDGE JONES: It sounds like that  
3 difference has been hashed out. That wasn't your intent?

4 MR. STEWART: I don't believe I ever stated  
5 in the application what he seems to think I implied in the  
6 application. But for the record, I don't -- Spectra is  
7 not saying that Chariton Valley necessarily has to serve,  
8 provide service in all of -- throughout Spectra's entire  
9 study area in order to obtain ETC status.

10 JUDGE JONES: So you-all are in  
11 agreement -- or I should say you're in agreement with  
12 their intention in light of what he said?

13 MR. JOHNSON: Let them intervene, your  
14 Honor.

15 JUDGE JONES: And Staff, do you have an  
16 opinion in this regard?

17 MR. POSTON: We have no objections to the  
18 intervention?

19 MR. MILLS: No objection.

20 JUDGE JONES: Okay. That makes my job  
21 easy. Since there is no opposition, then, you're granted  
22 intervention on the record today, and I'll issue a notice  
23 reflecting what we've said in this prehearing conference.

24 Is there anything else you-all need to talk  
25 about? Well, I don't know how much testimony or what

1 needs to be filed in this case. I don't know how complex  
2 you're going to make it. I know we're trying to move away  
3 from a whole lot of prefiled testimony. Is it necessary  
4 to have prefiled testimony in this case?

5 MR. STEWART: I would think so.

6 JUDGE JONES: Okay.

7 MR. JOHNSON: I hold out the hope that  
8 there might be a prospect for some sort of factual  
9 stipulation, but I'm not convinced that will happen,  
10 particularly not unless we have some testimony.

11 MR. STEWART: I'd agree with that.

12 JUDGE JONES: Is there any timeline that  
13 Chariton's trying to move in?

14 MR. JOHNSON: Your Honor, I don't believe  
15 there's an operation of law date or a limited time frame  
16 that you have to consider this application. Lots of  
17 things going on in August, and I had come prepared with  
18 sort of a thought about a schedule and hearing dates, but  
19 to me the key to working out a schedule is going to be,  
20 one, how long we think the hearing's going to last, and  
21 two, how many hearing dates may be available in the time  
22 frame I'm looking at. I don't know if there's a way to  
23 access the Commission's calendar or not.

24 JUDGE JONES: Well, the Commission's  
25 calendar is on the ninth floor. The location's changed.

1 It's down the hall from the agenda room now. It's not  
2 where it used to be.

3 I suspect the Commissioners will also want  
4 prehearing briefs from everyone. I don't anticipate  
5 post-hearing briefs. Closing arguments might be made  
6 instead. You might consider that. Beyond that, I'll  
7 pretty much let you-all figure out what you want to  
8 present to the Commission and how you want to do it. If  
9 you need guidance in that regard, I'll be happy to help.

10 MR. STEWART: I just checked with my  
11 client. The U.S. Cellular ETC application case, which is  
12 a much bigger case with more parties, that's only set for  
13 hearing for three days. So I'm assuming it won't be  
14 anywhere near that.

15 MR. JOHNSON: I would hope -- I would  
16 envision that we would be able to put on our eligibility  
17 proof with a single witness. That's my hope.

18 MR. STEWART: And we have traditionally  
19 only offered one witness.

20 JUDGE JONES: And Staff and OPC?

21 MR. MILLS: We'll probably have one  
22 witness.

23 MR. POSTON: Same, one witness.

24 JUDGE JONES: So we're looking at four  
25 witnesses. I realize there are only four witnesses, but

1 things don't seem to work out like they're intended to  
2 work out. So you-all might want to think about two days  
3 for a hearing.

4 Okay. Do you-all need anything further  
5 from me? I suggest you try to settle this so we don't  
6 have to go through all this procedural stuff?

7 MR. MILLS: We're going to make it as  
8 complicated as possible just to keep you entertained.

9 JUDGE JONES: That would be fine. I can  
10 use that, particularly now. I'm pretty much like jelly.  
11 With that, we can go off the record.

12 WHEREUPON, the recorded portion of the  
13 prehearing conference was concluded.

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