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**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office
in Jefferson City on the 31st
day of December, 1997.

In the Matter of an Investigation to Implement a)
Statewide Telecommunications Equipment Distribution)
Program for Individuals Unable to Use Traditional)
Telephone Equipment Due to Disability.)

Case No. TO-97-16

**ORDER CLARIFYING AND REVISING THE MISSOURI ADAPTIVE
TELEPHONE EQUIPMENT PROGRAM**

The Missouri Public Service Commission (Commission) issued its Order Implementing Equipment Distribution Program for the Disabled on June 20, 1997. In that order the Commission renamed the program the "Adaptive Telephone Equipment Program" (ATEP). On September 3, the Staff of the Commission (Staff) filed its Motion to Revise Definition. Subsequently Staff asked to withdraw its September 3 motion and substitute its Motion to Revise the Adaptive Telephone Equipment Program, filed on October 22, in its stead. On November 6 Staff filed an attachment to its October 22 motion, which had been inadvertently omitted from its original filing.

Staff requests that the Commission issue an order which does the following:

- (1) revises the definition of "reasonable access to telephone service";
- (2) revises the definition of "traditional telephone equipment";
- (3) eliminates the ability of an applicant to "trade up" by applying a voucher against the cost of an upgraded, more expensive piece of equipment;

- (4) establishes an intermediate level of review in which Staff first reviews and makes a decision regarding an applicant's rejected application, with the Commission only reviewing those applications in which Staff agrees with the decision of the ATEP Program Administrator, and rejects the application;
- (5) replaces Carolyn Little, a representative from GTE Midwest Incorporated (GTE), on the ATEP Advisory Committee (ATEPAC), with Dave Evans, also from GTE; and
- (6) approves the bylaws of the ATEPAC.

Staff first asks that the Commission revise the definition of the phrase "reasonable access to telephone service." In conjunction with the ATEPAC, Staff recommends that the definition be "cost-effective adaptive telephone equipment that provides an eligible subscriber with connection to a basic telephone access line." This is a modification of the definition originally adopted by the Commission in its February 28 order. That definition is "service that enables an eligible subscriber to reach and use a basic telephone access line."

Staff contends that the original definition has caused confusion regarding the parameters of the ATEP program. The original definition appears to define a "service" rather than "access" to a service. In addition, the phrase "reach and use" has been misunderstood as applying to such things as wheelchairs, hearing aids, or other augmentative devices. The Commission agrees with Staff that the definition should be revised, but finds that the key focus of the phrase to be defined is on "access," while Staff's proposed definition focuses on "equipment." The Commission determines that Staff's proposed definition can be adopted if modified, as follows: "Reasonable access to telephone service is access which connects

eligible subscribers to a basic telephone access line via cost-effective adaptive telephone equipment."

Further, Staff requests that the Commission also revise the definition of "traditional telephone equipment." The definition adopted in the Commission's February 28 order is "equipment costing less than \$50.00, exclusive of taxes, which enables users to reach and use a basic telephone access line." Staff proposes that the language "reach and use" be eliminated from the definition, and the language "connect to" be substituted instead. This change would make the definition consistent with Staff's proposed definition of "reasonable access to telephone service."

The Commission agrees that Staff's proposed change is reasonable and appropriate, but finds that the definition needs further clarification in order to adequately convey to certifying persons or entities what is to be considered "traditional telephone equipment" under the ATEP program. The Commission will thus substitute the following definition for the definition previously adopted in its February 28 order: "Traditional telephone equipment is customer premises equipment (CPE) which connects users to a basic telephone access line and permits the two-way exchange of voice messages via audio signal transmission and reception, and via employment of a handset for transmission and reception of those audio signals, along with an audio notification system for incoming calls."

The Commission finds that it is not necessary to include the cost of the equipment as part of the definition. The original purpose was to indicate that the ATEP program would only provide equipment that cost more than \$50.00, exclusive of taxes. The Commission finds that this goal can be more effectively accomplished by simply stating that the ATEP program will purchase for eligible subscribers only those types of adaptive

telephone equipment which cost more than \$50.00, exclusive of taxes. The Commission finds that the establishment of a \$50.00 threshold for the purchase of adaptive telephone equipment as a parameter of the ATEP program is consistent with the Commission's authority to ensure that the program is cost-effective. In addition, the Commission finds that retaining the reference in the definition of traditional telephone equipment may cause confusion, since the Commission now has a separate definition for adaptive telephone equipment.

Additionally, Staff urges the Commission to eliminate the ability of an applicant to "trade up" by applying a voucher against the cost of an upgraded, more expensive piece of equipment. Staff contends that it would be administratively difficult to track refunds and credits of individual participants in the ATEP program, and that such a system would be extremely susceptible to fraud and abuse. The Commission notes that the present vendor contracts contain a provision in Section 3.3.3 which states as follows: "If requested by the voucher program client, the vendor should make available equipment costing more than the voucher allows or that provides additional features not described in the voucher so long as the voucher program client has indicated his or her willingness to pay the difference. Such cost differences shall not be billed to the state or otherwise paid by the state."

The Commission finds that the authorization for applicants to obtain upgraded equipment is contained in the current vendor contracts, and that elimination of this ability to "trade up" may require the termination of existing vendor contracts and the issuance of IFBs (Invitation For Bids) for new contracts. The Commission finds that it would not be efficient to terminate and re-bid the vendor contracts at this time. In addition, the

Commission would prefer to have more information on the potential for fraud and abuse prior to making a decision on this issue. The Commission will thus deny Staff's request at this time. However, the Commission will clarify that the amount which may be applied to an upgraded piece of equipment is the dollar value that would be paid to the vendor by the State under the vendor contract for the type of equipment for which a person with that type and level of disability would qualify. The applicant must make arrangements directly with the vendor to obtain upgraded equipment. However, the applicant should indicate on the application form sent to the ATEP Program Administrator that he or she intends to request upgraded equipment.

Staff also suggests that the Commission establish an intermediate level of review in which Staff first reviews and makes a decision concerning an applicant's rejected application, with the Commission reviewing only those applications in which Staff agrees with the ATEP Program Administrator, and rejects the application. Staff believes that such an intermediate level of review may assist in dealing with misunderstandings and simple procedural problems without the need for Commission involvement.

The Commission has considered Staff's request and finds that adding another layer to the review process will not measurably add to the efficiency of the process, and may cause confusion to the applicant seeking review. Instead, the Commission finds that Staff should process requests for administrative review of the ATEP Program Administrator's decision, and should prepare a recommendation for the Commission's decision. The Commission will then authorize a letter to be sent to the applicant, informing the applicant of the Commission's decision. The

letter will be mailed to the applicant within 60 days after receipt of a completed application for review, including all necessary documentation. The Commission further notes that in the past the administrative review process was referred to as an appeals process instead, and finds that these references may cause confusion. All future references should be to an administrative review process, and the forms used to request review should be titled "Request for Administrative Review."

In addition, Staff notes that Carolyn Little from GTE was named to the ATEPAC by the Commission in its June 20 order. Because of changes in the job responsibilities of Ms. Little, Staff requests that she be replaced on the ATEPAC by Dave Evans, who is also from GTE. The Commission finds that as the result of changes in the job duties of Ms. Little, Dave Evans of GTE should be appointed to replace her. The Commission further finds that although the initial members of the ATEPAC were designated by the Commission in an order, future changes in the composition of the ATEPAC can be accomplished in the course of the Commission's regular public agenda meetings.

Finally, Staff submits the bylaws passed by the ATEPAC at its October 15 meeting for Commission approval. The Commission has reviewed the proposed bylaws, and determines that they can be approved with minor modifications. The Commission finds that:

(a) Subsection D of Section II, Article I should be modified to read as follows: "To provide, when requested, information to the Commission or its Staff which may assist the Commission in the administrative review of rejected applications where such review has been sought." This change will make the bylaws consistent with the Commission's determination that

the "appeals process" should be referred to as an administrative review process instead;

(b) Subsection A of Section I, Article IV should be modified to read as follows: "The Committee shall convene no more than four (4) times per year.";

(c) Subsection B of Section I, Article IV should be modified to read as follows: "Committee meetings and records are open to the public, but may be closed to the same extent as allowed by the statutory provisions applicable to the Commission."; and

(d) Section VI of Article IV should be modified to read as follows: "Meetings of the Committee shall be held at any location within the State deemed convenient by the Committee."

Although not requested by Staff, the Commission determines *sua sponte* that it should reaffirm some of the changes made to the ATEP program at a public agenda session on August 29. The Commission authorized development of a list of basic adaptive telephone equipment that would be available under the program. This list would determine what equipment a particular applicant would receive, depending on the type and level of that person's disability. The ATEP Program Administrator would order the appropriate equipment from the list directly from the vendor, to be delivered to the address specified by the applicant in the application. The Program Administrator would then send the applicant a copy of the voucher submitted by the Administrator to the vendor on the applicant's behalf. The Commission finds that these changes will eliminate confusion about what the ATEP program provides, will allow applicants to receive their equipment more quickly, and will increase the cost-effectiveness and efficiency of the program. The latter in turn will ensure that adaptive

telephone equipment can be provided to the greatest number of eligible subscribers. The Commission thus reaffirms these changes to the program.

The Commission will also reconsider *sua sponte* the definitions approved during that agenda session. The definition of adaptive telephone equipment proposed by Staff and approved by the Commission on August 29 is as follows: "Adaptive telephone equipment is customer premises equipment that attaches directly to a basic telephone access line, or equipment that is an extension of customer premises equipment attached directly to a basic telephone access line." Upon further reflection, the Commission determines that this definition is inadequate, since it does not convey an understanding of what distinguishes adaptive telephone equipment from regular telephone equipment. The phrase "customer premises equipment that attaches directly to a basic telephone access line" could be interpreted as referring to traditional telephone equipment. Similarly, "equipment that is an extension of customer premises equipment attached directly to a basic telephone access line" could be interpreted as referring to equipment such as a Caller ID unit.

The Commission will thus replace the current definition of adaptive telephone equipment with the following definition: "Adaptive telephone equipment is customer premises equipment (CPE) designed as a telecommunications device that has the sole function of connecting an eligible subscriber to a basic telephone access line by facilitating a comparable substitute for some attribute of traditional telephone equipment, such as the transmission of audio signals, the reception of audio signals, the audio notification of incoming calls, or the handset."

The Commission will also modify its definition of "qualified state agency." The definition proposed by Staff and approved by the

Commission on August 29 is as follows: "A 'qualified state agency' for purposes of certifying individuals is an agency that works with individuals with disabilities, or is familiar with an individual's needs, and has been involved with working with individuals with disabilities for no less than three years." However, the Commission finds that the "definition" should be revised to make it clear that the Commission is not adopting a definition of "qualified state agency" per se, but instead is adopting criteria to be used in certifying agencies as qualified state agencies. Thus the Commission will adopt the following criteria: "The Commission or the Commission's Staff, acting on behalf of the Commission, may designate a state agency as a 'qualified state agency' for purposes of certifying individuals as eligible subscribers under the ATEP program if the state agency works with individuals with disabilities, or is familiar with disabled individuals' needs, and has been involved in working with individuals with disabilities for no less than three years."

This statement of criteria is consistent with the requirements recommended by the ATEPAC. The Commission further finds that it would be appropriate to delegate the designation of qualified state agencies to its Staff. Using these criteria, Staff can quickly designate that a particular state agency be recognized as a qualified state agency, thus the certification of state agencies as qualified state agencies can be accomplished in a timely manner. Staff shall report to the Commission on the designation of state agencies as qualified state agencies on a regular basis, no less frequently than once every six months.

IT IS THEREFORE ORDERED:

1. That the definition of "reasonable access to telephone service" shall be as follows: "Reasonable access to telephone service is

access which connects eligible subscribers to a basic telephone access line via cost-effective adaptive telephone equipment."

2. That the definition of "traditional telephone equipment" shall be as follows: "Traditional telephone equipment is customer premises equipment (CPE) which connects users to a basic telephone access line and permits the two-way exchange of voice messages via audio signal transmission and reception, and via employment of a handset for transmission and reception of those audio signals, along with an audio notification system for incoming calls."

3. That the Adaptive Telephone Equipment Program will only provide eligible subscribers with those types of adaptive telephone equipment which cost more than \$50.00, exclusive of taxes.

4. That the portion of the motion filed by the Staff of the Commission on October 22, 1997, which requests that the Commission revise the Adaptive Telephone Equipment Program to eliminate the ability of an applicant to "trade up" by applying a voucher against the cost of an upgraded, more expensive piece of equipment, is denied.

5. That the portion of the motion filed by the Staff of the Commission on October 22, 1997, which requests that the Commission revise the Adaptive Telephone Equipment Program to establish an intermediate level of review in which Staff would first review an applicant's rejected application, and the Commission would only review those applications which Staff rejects, is denied.

6. That the process for the administrative review of applications which are rejected by the Adaptive Telephone Equipment Program Administrator shall be as described in the body of this order.

7. That Dave Evans of GTE Midwest Incorporated shall replace Carolyn Little of GTE Midwest Incorporated as a representative on the Adaptive Telephone Equipment Advisory Committee.

8. That the bylaws of the Adaptive Telephone Equipment Advisory Committee shall be approved as modified by this order.

9. That a list of basic adaptive telephone equipment shall be developed and the Adaptive Telephone Equipment Program shall be modified as described in this order.

10. That the definition of "adaptive telephone equipment" shall be as follows: "Adaptive telephone equipment is customer premises equipment (CPE) designed as a telecommunications device that has the sole function of connecting an eligible subscriber to a basic telephone access line by facilitating a comparable substitute for some attribute of traditional telephone equipment, such as the transmission of audio signals, the reception of audio signals, the audio notification of incoming calls, or the handset."

11. That the criteria for designating qualified state agencies shall be as follows: "The Commission or the Commission's Staff, acting on behalf of the Commission, may designate a state agency as a 'qualified state agency' for purposes of certifying individuals as eligible subscribers under the ATEP program if the state agency works with individuals with disabilities, or is familiar with disabled individuals' needs, and has been involved in working with individuals with disabilities for no less than three years."

12. That the Staff of the Commission shall report to the Commission on the designation of state agencies as qualified state agencies on a regular basis, no less frequently than once every six months.

13. That this order shall become effective on January 10,
1997.

BY THE COMMISSION

A handwritten signature in black ink, reading "Dale Hardy Roberts". The signature is written in a cursive style with a large, stylized 'D' and 'R'.

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Lumpe, Ch., Crumpton,
Murray, and Drainer,
CC., Concur.

Bensavage, Regulatory Law Judge