BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of USCOC of Greater Missouri, LLC for Designation as an Eligible Telecommunications Carrier Pursuant to the Telecommunications Act of 1996	))))	**File No. TO-2005-0384**

STAFF RECOMMENDATION AND REQUEST TO SHORTEN TIME FOR RESPONSE

COMES NOW the Staff of the Missouri Public Service Commission ("Staff"), through the undersigned counsel, and respectfully states as follows:

1. USCOC of Greater Missouri, LLC d/b/a U.S. Cellular ("the Company") filed a motion on September 7, 2012, asking the Commission to eliminate the condition the Commission imposed on the Company in its designation as an Eligible Telecommunications Carrier ("ETC") that the Company meet a baseline investment requirement of a two-year average of $15 million per year in capital expenditures for construction of cell sites in the rural Missouri market in addition to the support it would be receiving from the federal Universal Service Fund ("fUSF").

2. On September 7, 2012, the Commission issued an Order in which it required the Staff or any other interested entity the opportunity to respond to the Company's request on or before September 28, 2012.

3. As more fully discussed in the attached Staff Memorandum, the Staff supports the Company's request to relieve it of the baseline investment requirement. As the Staff notes:

> In Staff's opinion, given the FCC's recent USF reforms, it seems unreasonable to require any company to indefinitely maintain a significant level of capital expenditures in rural areas in order to simply maintain ETC status, especially since it will have to submit plans, presumably to the FCC, for a particular area in order to participate in the auction for that area.

4. The Commission's Order allowing until September 28 for responses presents difficulties with getting the annual certification to the fUSF administrator in a timely fashion. The Commission must have its recommendation to the administrator on or before October 1. Failure to timely certify the Company would cause it to lose a quarter of a year's funding, at a minimum. If an entity were to object to the removal of the requirement, the Commission may want to delay certifying or even deny certification. The Commission's Agendas prior to October 1 are September 20 and September 26. The Staff would prefer that the deadline for filing responses be September 19, but should be no later than September 23, 2012 (this date is a Sunday, but that deadline ensures that any responses will be filed before the Agenda is published). If September 19 is established as the deadline, the Staff requests that the matter be placed on the Agenda, so that any responses may be discussed even though an Order may not be ready.

WHEREFORE, the Staff recommends that the Commission issue an Order wherein it relieves U.S. Cellular of the baseline investment requirement from the conditions of its designation as an ETC in Missouri and that the Commission shorten the deadline for filing responses to September 19 or 23, 2012.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 13th day of September, 2012.

Memorandum

To: Official Case File
Case No. TO-2005-0384

From: John Van Eschen
Telecommunications Unit

Date: September 13, 2012

Subject: Grant US Cellular's request for relief of special condition

On September 7, 2012 USCOC of Greater Missouri, LLC d/b/a U.S. Cellular (US Cellular) filed a Motion to Lift Baseline Investment Requirement. The Commission has ordered the Commission Staff to file a recommendation to this motion no later than September 28, 2012. As noted in US Cellular's Motion the Commission Staff (Staff) does not oppose the company's request. The purpose of this memorandum is to explain why the Staff recommends the Commission grant the requested relief.

US Cellular's Request

US Cellular is seeking relief from the special condition established by the Missouri Commission in granting ETC status to the company. The special condition is identified within Order No. 4 on pages 38-39 of the Commission's May 3, 2007 Report and Order. Specifically the company is seeking relief from the following terms contained in this section:

> "…is conditioned upon it meeting a base line investment requirement of a two-year average of $15 million per year in capital expenditures for construction of cell sites in its Missouri market, excluding St. Louis and the Joplin area, in addition to any funding it receives from the federal Universal Service Fund…."

The company is not seeking relief from the remaining portion of Order No. 4 that the company spend all funds received from the federal Universal Service Fund in rural areas of Missouri in a manner consistent with all requirements of federal and state law.

The Staff in the annual USF certification process discussed US Cellular's special condition in the Commission's September 15, 2010 agenda meeting. Specifically the Staff discussed the differing interpretations between Staff and US Cellular on determining compliance with the $15 million special condition. Essentially US Cellular contends compliance is demonstrated if its annual rural capital expenditures simply exceed $15 million.[1] In contrast, a differing interpretation is to deduct from the company's rural capital expenditures the amount received in federal USF support.[2]

Staff Recommendation

US Cellular's rationale for lifting the special condition is based on the FCC's Connect America Fund Order and its impact on future company investment.[3] This FCC decision will admittedly impact all ETCs, but US Cellular is the only ETC with this sort of special condition. In particular, future legacy high-cost support for competitive ETCs will be phased down and totally eliminated by July 1, 2016.[4] A wireless ETC will need to competitively bid through a reverse-auction system in order to receive future high-cost support from the Connect America Fund and/or the Mobility Fund. In this new funding arrangement a company must have ETC status in order to simply submit a bid. In Staff's opinion, given the FCC's recent USF reforms, it seems unreasonable to require any company to indefinitely maintain a significant level of capital expenditures in rural areas in order to simply maintain ETC status, especially since it will have to submit plans, presumably to the FCC, for a particular area in order to participate in the auction for that area. Nevertheless, there are a couple other basic considerations for lifting the special condition applied to U.S. Cellular's ETC status.

First, the special condition applied to U.S. Cellular may be unnecessary. Existing annual filing requirements are identified in 4 CSR 240-3.570(4). These requirements require an ETC to submit certain information to the Commission demonstrating how the funding is being used.

[1] US Cellular's interpretation might be considered consistent with Commission statements made on page 21 of the Report and Order stating "…the Commission will establish a two-year average base line of $15 million per year, which is the amount that U.S. Cellular currently invests for construction of cell sites in its Missouri market, excluding St. Louis and the Joplin area, without wireless support. If U.S. Cellular invests less than $15 million in the first year, it will need to increase its spending in the second year to bring the average for the two years up to the base line amount…."

[2] To illustrate in a simplified example of how the special condition has differing interpretations, assume US Cellular's rural capital expenditures are average $28 million and the company's federal USF high-cost support averages $16 million per year. This approach deducts from the company's rural capital expenditures the amount received in federal USF high-cost support. In this instance $28 million - $16 = $12 million which suggests noncompliance because $12 million is less than $15 million.

[3] This decision goes by various names but it generally initiated reforms for the federal USF high-cost program. Report and Order and Further Notice of Proposed Rulemaking; WC Docket No. 10-90, In the Matter of Connect America Fund, et al; FCC 11-161; released November 18, 2011.

[4] Competitive ETC support per study area is frozen at the 2011 baseline and a competitive ETC's support will by 80% of this baseline support from July 1, 2012 to June 30, 2013; 60% of baseline by July 1, 2013; 40% of baseline by July 1, 2014; and 20% of baseline by July 1, 2015. (See Paragraph No. 519 of FCC's CAF Order.)

This information includes a two-year improvement plan as well as various attestations that the funding is used only for the provision, maintenance and upgrading of facilities and services for which the support is intended. Such information required by the Commission's annual certification process can be used by the Commission to determine whether to re-certify a company.[5]

Second, the special condition applied to U.S. Cellular may have unintended consequences. The special condition applied to U.S. Cellular is solely focused on cell site construction in rural areas. This limited focus may have unintended consequences such as discouraging tower sharing arrangements whereby U.S. Cellular may rent space on another carrier's tower.   Therefore, the unintended consequences may be the construction of more cell towers than necessary which can also translate into increased cost of expanding service to an area.

In summary Staff has no objection to granting U.S. Cellular's relief request. Staff recommends the Commission lift the special condition associated with the company's ETC status as established in the Commission's May 3, 2007 Report and Order.

[5] Annual filing requirements in the Missouri rules are anticipated to be addressed in an upcoming rulemaking. At this time the proposed rulemaking attempts to essentially maintain these requirements ; however, they will also be supplemented by new FCC annual filing requirements as identified in FCC rule 47 CFR 54.313.