

1 STATE OF MISSOURI  
2 PUBLIC SERVICE COMMISSION  
3  
4  
5 TRANSCRIPT OF PROCEEDINGS  
6 Hearing  
7 February 5, 2008  
8 Jefferson City, Missouri  
9 Volume 1  
10

11 In the Matter of a Proposed )  
12 Rulemaking to Amend )  
13 4 CSR 240-31.050, Eligibility ) Case No.  
For Funding - Low Income ) TX-2008-0122  
Customers and Disabled Customers )

14

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16 COLLEEN DALE, Presiding,  
17 CHIEF REGULATORY LAW JUDGE  
JEFF DAVIS, Chairman,  
18 CONNIE MURRAY,  
ROBERT M. CLAYTON III,  
19 LINWARD "LIN" APPLING,  
TERRY JARRETT  
COMMISSIONERS

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REPORTED BY:

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23 MINDY VISLAY, CCR  
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25                           Service Commission

1 P R O C E E D I N G S

2 JUDGE DALE: We are here today,  
3 February 5th, 2008, in the matter of a proposed  
4 rulemaking to amend 4 CSR 240-31.050(3), individual  
5 eligibility requirements for participation in the  
6 Missouri Universal Service Fund by low-income and  
7 disabled customers, Case No. TX-2008-0122.

8 We can begin with entries of appearance, please,  
9 by Staff.

10 MS. KLIETHERMES: Sarah Kliethermes, 200  
11 Madison Street, Jefferson City, Missouri 65102.

12 MR. GRYZMALA: Bob Gryzmala on behalf of  
13 Southwestern Bell Telephone Company doing business as  
14 AT&T Missouri at One AT&T Center, Room 3516, St.  
15 Louis, Missouri 63101.

16 JUDGE DALE: I have a message from  
17 Mr. Dandino, he will be joining us. But meanwhile,  
18 let's get your witness sworn in, please.

19 MICHAEL SHEPHERDLY,

20 Of lawful age, being first duly sworn by the  
21 Notary Public, testified as follows:

22 QUESTIONS BY MS. KLIETHERMES:

23 Q. Mr. Shepherdly, do you have anything to add  
24 to the written comments that Staff has filed in this  
25 matter?

1           A.    Yes, I do.  I have a few thoughts on AT&T's  
2    comments filed this morning.

3           The first one was that Missouri PSC has contacted  
4    state agencies on potential verification of consumers.  
5    Some agencies will not release the information to the  
6    Missouri PFC.  Also, the action agencies will not  
7    release some information to an agent of the board,  
8    which would be the Fund Administrator.  There have  
9    been privacy law changes in the last six years since  
10   the adoption of the Missouri USF rule, Chapter 31.  
11   Another thing is that existing forms are board  
12   approved.

13          Last week we received a call from a legislator, on  
14   one company, that the disability section was not on  
15   the form and that he was upset with that.  So, some  
16   forms exist, but all the criteria should be laid out  
17   for low-income and disability.

18          There was also a section in there about a part  
19   where for one year we did not adopt or did not  
20   initiate this rulemaking.  I think that all the  
21   parties are well aware that the board and the  
22   Commission address different options concerning the  
23   external audit recommendation.  The Staff worked with  
24   the industry before filing any recommendations on  
25   that.

1           Also, I believe AT&T laid out in the current  
2   certification procedure that the current procedure is  
3   fine. Also, in that same order from the FCC, the  
4   order said that we also adopt the Joint Board's  
5   recommendation to allow states that administer their  
6   own Lifeline/Link-Up programs the flexibility to  
7   design and implement their own verification procedures  
8   to validate consumers' continued eligibility.

9           Q.   Mr. Shepherdly, if you could clarify for  
10   the record, what is that docket that you just referred  
11   to, the docket number?

12          A.   The docket number is WC Docket No. 03-109,  
13   or sometimes referred to as FCC 04-87, and that was  
14   released on April 29, 2004.

15                   JUDGE DALE: Thank you.

16          Mr. Gryzmala, do you want to add something?

17                   MR. GRYZMALA: No. If Mr. Shepherdly is  
18   completed, I didn't know if I had an opportunity to  
19   ask questions of him.

20                   JUDGE DALE: No.

21                   MR. GRYZMALA: Okay. Thank you.

22                   COMMISSIONER CLAYTON: Judge, I was going  
23   to ask that, since we only have limited number of  
24   parties, that maybe we can hear from AT&T. And if you  
25   would give us a chance then we can ask questions of

1 each of them, or no?

2 JUDGE DALE: That would be fine, yes.

3 COMMISSIONER CLAYTON: Let him go ahead and  
4 respond and then we can work through rather than ask  
5 questions of Mr. Shepherdly. I don't want to let him  
6 off the hook that easily. Let AT&T go.

7 JUDGE DALE: Before we do that,  
8 Mr. Gryzmala -- Mr. Dandino, if you would like to  
9 enter your appearance.

10 MR. DANDINO: Yes, Your Honor. I apologize  
11 for being late. On my schedule I had a ten o'clock, a  
12 one o'clock and a two o'clock for this hearing. But  
13 be that as it may, I'm here.

14 Michael F. Dandino, Post Office Box 2230,  
15 Jefferson City, Missouri 65102, representing the  
16 Office of the Public Counsel and the public.

17 JUDGE DALE: Mr. Gryzmala, you can either  
18 stay at the table or come to the podium, whichever you  
19 prefer.

20 MR. GRYZMALA: Judge Dale, Commissioner  
21 Clayton, Commissioner Jarrett. My name is Bob  
22 Gryzmala, I represent AT&T Missouri, and thank you for  
23 the opportunity to speak with you.

24 It's unfortunate that we are hearing so many new  
25 facts this late in the game, but at the end of the day

1 it doesn't make a difference.

2 We're hearing that the Missouri Commission has  
3 contacted state agencies, that agencies wouldn't  
4 release information, that there are other criticisms  
5 that led to -- presumably -- the Notice of Finding of  
6 Necessity to open this rulemaking and a Notice of  
7 Proposed Rulemaking to entertain comment.

8 None of this, not a single item that  
9 Mr. Shepherdly pointed out to you moments ago, was  
10 indicated to the public, the industry, or anyone, so  
11 as to be able to have meaningful substantial comment.  
12 It might have made the world of difference.

13 At the end of the day though it doesn't. Because  
14 what matters is that the Commission put in place,  
15 six years ago, a comprehensive Universal Service Fund  
16 for low-income and disabled people, and it did two  
17 things at that time.

18 It told folks that if they wanted to apply for  
19 low-income or disabled funds for help on their phone  
20 bill they had to sign, in writing, under penalty of  
21 perjury, a certification that they belong to one of  
22 the programs that were in a "check-the-box" format on  
23 an application. National food stamps or school lunch  
24 for the needy are a couple examples.

25 And it did another thing so as to cure concerns or

1 mitigate concerns that there might be error, or what  
2 the Staff just today uses; fraud. So, we'll do  
3 something else, we will -- and the rule that was put  
4 in place six years ago said the Fund Administrator  
5 shall be authorized to conduct audits of  
6 self-certification using records that can be lawfully  
7 made available from the administrators of agencies.

8         So, you had two steps here. You had someone who  
9 would step up and say; I am telling you under penalty  
10 of perjury I qualify; and number two, there is a  
11 mechanism for the government to check with the  
12 agencies to make sure that they did.

13         Six years have gone on since then, and we have a  
14 Notice of Rulemaking that alludes to an audit report  
15 that is not in the record, nowhere in the record, so  
16 there's no benefit of the findings of that audit,  
17 there's no opportunity for the public or anyone else  
18 to comment as to the underlying rationale.

19         Audits are not bible. They are subject to the  
20 same scrutiny as our other documents and  
21 professionals, and particularly when it affects the  
22 public interest. Candidly, we think we know which  
23 audit report it is. I have a copy of a September 19  
24 McBride Lock and Associates audit report, and it  
25 purports to lay out that there is a need to validate.



1 But the problem with that is that it doesn't form  
2 the basis of a rule change. Not a substantial  
3 evidence on the record, as a whole, rule change. The  
4 audit report doesn't explain why what the Commission  
5 put in place six years ago won't work. The audit  
6 doesn't explain why the Fund Administrator performed  
7 no validation.

8 Now, we are hearing that something akin to that  
9 happened but we're hearing it two minutes ago. I  
10 haven't been able to think about it much less respond.  
11 And we don't know that we can accept it as fact  
12 because it is not subject to the scrutiny of the  
13 record and it's not been made subject to my  
14 cross-examination.

15 More importantly, maybe, to get to the core point  
16 here, isn't there another way we can approach this  
17 other than requiring individuals to provide the  
18 telephone company documentation of participation?

19 So, now think about how this is going to change.  
20 No longer would a disabled person or low-income person  
21 have to simply fill out a form and check the box for  
22 the programs they qualify for and sign under penalty  
23 of perjury. They have to provide a piece of paper --  
24 we don't know what will work, what will suffice --  
25 documentation of participation, provide it to the

1 telephone company, and we are to record it, and we  
2 become the repository, the caretakers of documents.  
3 We don't have any need for them.

4       What measure could work that would be more modest  
5 and less intrusive upon the public, and our business,  
6 quite frankly? One could adopt the rule that is  
7 proposed at 31.050(3)H, and it's a new add, and it  
8 would be that -- I'm sorry, excuse me. I spoke  
9 incorrectly.

10       If there were a need for greater assurances, the  
11 rule already is the case that audits can be taken  
12 using records that can lawfully be made available from  
13 the agency. If on the form the Commission were to  
14 require that a citizen also attest to what is stated  
15 in 31.050(3)C, require the individual, in that form  
16 they fill out, to sign an authorization allowing the  
17 appropriate Federal, state or local agency to confirm  
18 to the Commission or its Staff that the individual or  
19 dependant in the household participates in a program,  
20 that would be enough.

21       So, I just want to emphasize that the record is  
22 completely insufficient, completely deficient, on  
23 which to embark on a rule change, particularly one  
24 that would require that individuals, for the first  
25 time, provide documents of participation.

1           Where we are today, as the individual signs a  
2 self-certification -- and there is a rule that says  
3 records that can be made available from agencies can  
4 confirm it. A more modest change would be for the  
5 individual not only to self-certify in writing that  
6 they qualify but also that the agency that they  
7 receive their benefits from is free to confirm to the  
8 Missouri Public Service Commission or its Staff that,  
9 yes, I do qualify.

10           That would do a couple things. It would relieve  
11 individuals, citizens, low-income and disabled people,  
12 from another obstacle to qualify for low-income and  
13 disabled help.

14           Candidly, it would relieve the telephone company.  
15 We would not have to take and be a recipient and  
16 process and handle documents that people would be  
17 sending us in the mail from these various programs or  
18 faxing or dropping off at other points. We don't need  
19 to be in that scenario. We don't need to be in that  
20 position. And perhaps Mr. Dandino could talk about  
21 the measure of burden it possibly would place on  
22 citizens.

23           But that is our core point. We believe the record  
24 is insufficient on which to proceed to a rule change.  
25 And above all, there is a more modest proposal that

1    should fill the bill than the document of  
2    participation rule that staff now advances.  Thank  
3    you.

4                   JUDGE DALE:  Mr. Dandino?

5                   MR. DANDINO:  May I address the Commission  
6    from here?

7                   JUDGE DALE:  Yes, please.

8                   MR. DANDINO:  Members of the Commission,  
9    Your Honor.  The Office of Public Counsel is kind of  
10   in a strange position on this.  When this rule was  
11   drafted -- the original rule was drafted -- Public  
12   Counsel was very stringent in their insistence that  
13   there be self-certification on this.

14            I remember the conference that was held over in  
15   the Ramada Inn, the Truman Hotel now, where the  
16   industry, and I think social agencies, and our office  
17   met to try to go through and work this out.  And that  
18   was one of the points that came out, is we wanted to  
19   make it as, one, a reliable certification but also  
20   where it doesn't put any burden upon the recipient.

21            Now, there's on the other hand.  And then on the  
22   other hand, we do understand that the FCC has taken a  
23   little bit broader look on providing more verification  
24   and documentation.  And there's some fear, or at least  
25   some recognition, that if there is not a stronger

1 verification program it may threaten the fund,  
2 threaten the program, and we certainly don't want  
3 that.

4 Now, I think we are trying to balance, of course,  
5 as always, balance the issues. And the one point  
6 about the certification is, that if you have  
7 certification, and require, maybe spell out, exactly  
8 what type of document, our biggest fear to present --  
9 because our biggest fear is the customer will be sent  
10 around in a goose chase.

11 They go to get the document from the agency, well  
12 it's not here, it's not ready, I don't have that, and  
13 it takes a number of trips. And I think if we are  
14 going to require documentation with that is to make it  
15 as clear as possible what documentation they need.  
16 And also that we are cooperating with the social  
17 agencies to make sure they know what the Commission  
18 needs for this. Thank you.

19 JUDGE DALE: Thank you, Mr. Dandino.

20 Are there other parties that wish to speak? Then  
21 we move to Commissioner questions. Mr. Clayton?

22 COMMISSIONER CLAYTON: So, is Public  
23 Counsel in favor or opposed to the rule?

24 MR. DANDINO: We would be in favor of it  
25 for the idea that we just don't want to lose the

1     credibility of the program or the program.

2                   COMMISSIONER CLAYTON:  I understand.  But  
3     as it's drafted right now, is Public Counsel in favor  
4     or opposed to the rule?

5                   MR. DANDINO:  We can accept it.

6                   COMMISSIONER CLAYTON:  Because I think  
7     Public Counsel already voted -- or from the board, I  
8     think he'd already signed onto it.  So, I need to know  
9     if he's changed his position.

10                  MR. DANDINO:  No, we have not changed our  
11     position.  I think we just wanted to raise one of the  
12     concerns that you may want to take into consideration.

13                  COMMISSIONER CLAYTON:  I understand.  Well,  
14     this is the first that I've heard these concerns from  
15     the Public Counsel's office.  The Public Counsel  
16     didn't make those concerns known at the time this was  
17     discussed back at the board meeting.

18                  MR. DANDINO:  It may be because I wasn't  
19     involved in that, and it is part of my personal views.  
20     But it is also -- that has been at least a concern of  
21     the Public Counsel.

22                  COMMISSIONER CLAYTON:  Is there anything we  
23     can do to address your concerns by amendment in this  
24     rule?

25                  MR. DANDINO:  I think the only aspect of it

1 -- I think maybe it's this way; maybe it's the  
2 administration which could solve -- the administration  
3 of the rule, the administration of the program -- to  
4 make sure that the agencies that the customers need to  
5 get the documentations from, they know exactly what  
6 the companies want.

7 COMMISSIONER CLAYTON: Judge Dale, how long  
8 will the record be open in this case?

9 JUDGE DALE: It closes today.

10 COMMISSIONER CLAYTON: For sure it has to  
11 close today?

12 JUDGE DALE: We had a separate hearing, but  
13 this is the comment hearing. It closes today.

14 COMMISSIONER CLAYTON: Well, if there are  
15 any amendments, can you give them until midnight?

16 JUDGE DALE: Yes. You have until midnight.

17 COMMISSIONER CLAYTON: If you have any  
18 amendments we would be interested in seeing them.

19 MR. DANDINO: In other words, we could file  
20 a comment saying there's more of an administration  
21 aspect of it rather than the rule itself. Thank you,  
22 Your Honor.

23 COMMISSIONER CLAYTON: I understand. We  
24 have kind of gone down the road.

25 Now, Mr. Gryzmala, you gave a passionate speech

1 here in providing AT&T's comments. And I believe that  
2 only recently AT&T has filed these comments in this  
3 case; is that fairly accurate?

4 MR. GRYZMALA: This morning, Your Honor.

5 COMMISSIONER CLAYTON: Did you make your  
6 concerns known to the Staff prior to this morning?

7 This has been going down the road. This audit  
8 came out last year. We released the audit to AT&T  
9 last year, I'm almost for sure. I think we did. You  
10 all had the audits, you saw what we were trying to  
11 address.

12 I guess I'm a little concerned that we are coming  
13 in, the morning of this hearing, and you all are  
14 opposed. This is the first I've heard of your  
15 opposition, so I'm trying to figure out how this has  
16 evolved and how we have gotten to this point. And I  
17 really want us all to get along.

18 MR. GRYZMALA: I agree. And maybe I can  
19 explain some of it. I operate from a couple of  
20 disabilities, frankly.

21 Number one, I'm not connected to the board in the  
22 sense that I don't participate in the meetings that  
23 generally go on. I'm not a member of the folks who  
24 generally appear at those meetings.

25 I am not aware of how the audit actually ensued



1   except that when this proposal was, frankly,  
2   informally forwarded to my company back in April and  
3   May I heard tell that it had to do with an audit.  I  
4   said, well, let's see the audit.

5           And I got a copy of the September '06 letter from  
6   McBride, and I asked:  Is there anything else, this  
7   doesn't tell me anything?  That's candid.  I'm telling  
8   you candidly it doesn't say anything.  It has a very,  
9   very high level at the top -- we can argue about it,  
10   but that's how I became involved.  When you asked me  
11   about my prior knowledge.

12           I wrote comments, informal, all be it -- and I  
13   understood they were transmitted to the Staff -- in  
14   which we said there really is no reason to change the  
15   rule.  And if there was a reason to change the rule  
16   maybe we can do something else.

17           We objected to the notion of proof of  
18   documentation.  We objected to the notion of being in  
19   the business of taking paper when it's not our core  
20   business.  And there was another alternative path.

21           We made the point that an individual could  
22   self-certify and give specific authorization to the  
23   agency to confirm to the Staff, or to whomever, I  
24   belong, I am not cheating, I belong here, I need the  
25   help.

1           We made those points in April and May of this  
2   year. We asked that it not go forward, and frankly,  
3   that's the limited experience I've had. Because I'm  
4   not aware, Commissioner, in all candor, of the history  
5   of the board, and the problems and what have you, but  
6   I will say this in closing --

7                   COMMISSIONER CLAYTON: You are not getting  
8   off that easy, Bob.

9                   MR. GRYZMALA: And I want to do the right  
10   thing, too. We're not talking about company revenues  
11   here so much as we are talking about a burden to the  
12   company and your individuals, and that is of some  
13   concern.

14           But I guess what I'm saying is, that if an agency  
15   of the government will honor an individual's  
16   authorization, if not direction, to confirm program  
17   participation, then it's over. The mechanism is in  
18   place and it works.

19           Now, if for some reason the agency or the  
20   government refuses to provide that, notwithstanding a  
21   direction from the individual, then clearly is it  
22   appropriate to come to the telephone company for the  
23   same thing that a Federal or state or local government  
24   will not give another government agency? That's a  
25   very difficult question there, too.

1           In other words, it only works one of two ways;  
2 either the process has got to be fixed between the  
3 agencies or it doesn't work.

4           COMMISSIONER CLAYTON: Explain that to me.  
5 What do you mean the state agency? I mean, this rule  
6 requires, what, a piece of documentation for being  
7 eligible for this program?

8           MR. GRYZMALA: Right.

9           COMMISSIONER CLAYTON: So, are you  
10 suggesting that there ought to be intergovernmental  
11 shifts of information, is that what you are saying?

12           MR. GRYZMALA: No, what I'm saying is, if  
13 in the new rule that you all embark on you add to the  
14 current self-certification requirement a requirement  
15 that says, basically, we want to see this in the  
16 applicant's form, henceforth an authorization that the  
17 appropriate Federal, state or local agency can confirm  
18 to the Commission or its staff that I, or a dependant  
19 residing in my household, participates in a qualifying  
20 program -- that's 31.050(3)(D)(1)(C).

21           Now, if that appears in the form, it's hard for me  
22 to understand how another agency would say, no, you  
23 are not entitled to that information, Staff; you are  
24 not entitled to that information, Commission; you are  
25 not entitled to that, McBride Lock.

1 I would think that would be sufficient. You have  
2 direct authorization from the individual to that other  
3 agency to cough up.

4 Now, let's assume the other scenario. Let's say  
5 for some reason that agency says, no, that's not good  
6 enough, that is insufficient, we will not honor that.  
7 Then my question is; is it appropriate then to say,  
8 okay, fine, we'll just go to the telephone company and  
9 get it?

10 If they are going to refuse that transfer of  
11 information it's got to be on some legitimate basis,  
12 presumably a statute, a rule. And if that be the  
13 case, would that statute, would that rule not,  
14 likewise, apply to the telephone company or give us  
15 pause?

16 This is not our business, and there's another  
17 path. Today the agencies can confirm. That rule is  
18 in place. The Commission or its Staff can use audits,  
19 they are using records that can often be made  
20 available. That rule is in place today.

21 What you don't have in place today, Commissioner  
22 Clayton, is an authorization from the individual that  
23 that agency can confirm to the Staff that I am now who  
24 I say I am, and I am on a qualifying program. It's a  
25 more moderate approach. It's less intrusive to the

1 individual.

2 COMMISSIONER CLAYTON: Help me understand  
3 how this is such a radical deal here because it  
4 doesn't seem that radical, and I guess that's why I'm  
5 surprised.

6 We are talking about helping poor people get a  
7 telephone, and we have a government program to help  
8 them do that. And you all have the most customers, I  
9 think, and you've got a lot of people involved here,  
10 and we're talking about trying to comply with an audit  
11 that's mandated by statute. The audit -- which is the  
12 only document that I've seen -- that makes the  
13 suggestion that we need to do these types of checks.  
14 I'm just not sure why this is such a big problem.

15 MR. GRYZMALA: I don't know that it's such  
16 a big problem.

17 COMMISSIONER CLAYTON: Well, your tone is  
18 very serious. And I take it very seriously. I don't  
19 understand why it's such a burden or such a problem.

20 MR. GRYZMALA: I will not tell you it's a  
21 burden. I am here just simply making the point that  
22 there is a better way. That there is a way that would  
23 respect the record even if you adopt the audit report.

24 COMMISSIONER CLAYTON: The audit report is  
25 already adopted. We have already directed Staff and

1 Public Counsel's staff to comply as best as possible  
2 with the audit recommendations. And this is one of  
3 the recommendations that came forth in moving forward,  
4 and so I anticipated coming down here -- I hadn't read  
5 your comments yet so that's why I wasn't as prepared  
6 as I should have been because we have another hearing  
7 in 15 minutes.

8 This is what I want to do, I want Staff to respond  
9 to his suggestion that there's a better way. Is there  
10 a better way or not?

11 MS. KLIETHERMES: His better way that he's  
12 referring to is also part of the proposed rule, it's  
13 one half of it.

14 The Motion for Final Order of Rulemaking clearly  
15 states that the purpose of this is to modify the rules  
16 governing the standards for determining and verifying  
17 eligibility for participation.

18 And that's the important part that he's leaving  
19 out here is that the initial viewing of the  
20 documentation by the company, which can be as simple  
21 as possible, I mean, really, any level of  
22 documentation --

23 COMMISSIONER CLAYTON: Do they have to keep  
24 the document?

25 MS. KLIETHERMES: They do not. There's a

1 spreadsheet-type system that would be set up --

2 COMMISSIONER CLAYTON: There's something in  
3 here about records. "Telecommunications companies  
4 shall develop a process for recording the type of  
5 documentation received." But that's not the actual  
6 document. You don't have to keep the paper; right?

7 MS. KLIETHERMES: No, they would simply  
8 record that they did see something verifying the  
9 eligibility.

10 COMMISSIONER CLAYTON: Mr. Gryzmala, when  
11 somebody signs up for this program right now and they  
12 self-certify, explain to me briefly how that process  
13 works.

14 Is it done over the phone? Do they come downtown  
15 to the AT&T building? Do they mail in something? Do  
16 they have a coupon? What's the process right now for  
17 signing up?

18 MR. GRYZMALA: When one of our  
19 representatives qualifies the individual as a  
20 potential Lifeline --

21 COMMISSIONER CLAYTON: Is that by phone  
22 generally or in person?

23 MR. GRYZMALA: I might call for my mom. I  
24 might be calling for my grandma. And during the  
25 course of the contact it may come out that -- any

1 number of things happen in the range of discussion  
2 between two people on the phone when they call our  
3 company. My mom's on a fixed income; and what is that  
4 anyway? We get the notion that they may be eligible,  
5 or we might be outright asked do you have a program  
6 for poor people or for low-income or disabled.

7 Be that as it may, the form, ultimately, it's a  
8 single page form, and it is signed or is prepared;  
9 name address, telephone, and it has low-income -- the  
10 blocks -- the programs and disabled. The form that  
11 went out before, there used to be split --

12 COMMISSIONER CLAYTON: So, they call. So,  
13 someone goes to their own house to sign up their mom's  
14 phone, you dial in and the company mails out the form,  
15 then you've got to mail it back in.

16 MR. GRYZMALA: Or fax it.

17 COMMISSIONER CLAYTON: So, they are going  
18 to be sending a piece of paper back anyway.

19 MR. GRYZMALA: The application, yeah.

20 COMMISSIONER CLAYTON: So, there is going  
21 to be some sort of paper transaction, so what this  
22 rule requires is that an additional piece of paper has  
23 to go with that.

24 MR. GRYZMALA: And that we have to develop  
25 a process for recording it. And in the event there's



1 an audit we have to be able to provide the Staff and  
2 the Commission the kind of undefined audit trail --  
3 I'm not exactly sure. There's a spreadsheet reference  
4 that Staff mentioned. The rule doesn't say anything  
5 about the spreadsheet.

6 That is it, yes. We have to take an additional  
7 piece of paper, and I guess our reps will look at it  
8 and say, yes, it has national school lunch on it, I  
9 don't know what that really means, but we will record  
10 the kind of letter we got or document we got and,  
11 candidly, you can pitch it in the trash can. You're  
12 done with it. But then you would have some sort of  
13 way or mechanism by which you recover the type of  
14 document that the individual gave you.

15 COMMISSIONER CLAYTON: So, you already have  
16 a form that is going to check off the type of program?

17 MR. GRYZMALA: A lot of companies all have  
18 that, right.

19 COMMISSIONER CLAYTON: Let's say AT&T right  
20 now. So, someone calls in to sign up, they mail in  
21 the form and they say I'm on SSI.

22 MR. GRYZMALA: Yes.

23 COMMISSIONER CLAYTON: So, your consumer  
24 rep will assign SSI in some box somewhere?

25 MR. GRYZMALA: No, we don't need to. You

1 are done, Mr. Customer, you are done.

2 COMMISSIONER CLAYTON: So, what if I just  
3 send in a note and say I went Lifeline for my  
4 telephone, and you send me the form. And let's assume  
5 that it doesn't go through your office or the people  
6 at AT&T that I know that recognize the name. And I  
7 send in the form that I want Lifeline, and I lie. I  
8 don't like this in the record that I'm lying, but I'm  
9 using it as an example. I say I'm on SSI, it's sent  
10 in. I'm going to get the Lifeline credit, right,  
11 because I self-certified?

12 MR. GRYZMALA: If you sign under penalty of  
13 perjury that you belong to the program that you have  
14 identified, yes, sir, you will.

15 COMMISSIONER CLAYTON: And that's part of  
16 the problem, is that there's an attempt to stop  
17 fraudulent use or someone taking advantage of the  
18 particular program.

19 MR. GRYZMALA: I don't know the objective.  
20 It's not indicated in the record.

21 COMMISSIONER CLAYTON: Do you have any idea  
22 of the number of people right now that would be  
23 fraudulently accessing the Universal Service Fund in  
24 Missouri?

25 MR. GRYZMALA: I have no reason to believe

1     that they are substantial. I don't know either way.

2                   COMMISSIONER CLAYTON: We don't have any  
3     idea?

4                   MR. GRYZMALA: I don't. I don't know if  
5     the Staff does either.

6                   COMMISSIONER CLAYTON: Do you believe a  
7     government agency has an obligation to fight fraud and  
8     abuse in government programs?

9                   MR. GRYZMALA: Absolutely. Where it's  
10    demonstrated.

11                  COMMISSIONER CLAYTON: Just where it's  
12    demonstrated, or all programs even if it hasn't been  
13    demonstrated?

14                  MR. GRYZMALA: That's a difficult question.

15                  COMMISSIONER CLAYTON: Are you for  
16    government waste and fraud?

17                  MR. GRYZMALA: No. Measures should be  
18    taken to be assured that government funds are spent  
19    properly. I agree with that. I absolutely agree with  
20    that across the board.

21                  COMMISSIONER CLAYTON: Absolutely. So, how  
22    do we do this -- was it 1 percent? Is it a 1 percent  
23    audit or verification, something like that? How do we  
24    do that? How do we have some confidence that the  
25    program is being run efficiently and with as little

1 abuse and fraud as possible? How do we get there if  
2 not through this?

3 And I know we put the burden on your consumer rep.  
4 They have to look at another piece of paper, that they  
5 then throw away, and they check that. And it does put  
6 a burden on the customer. I understand their point of  
7 view. But we have an obligation to the rate payer/tax  
8 payer. How do we get there if not through this way?

9 MR. GRYZMALA: The form. You would add to  
10 the form. You would hold on the form the  
11 self-certification piece. You want that impression  
12 upon the customer that when I sign this document I'm  
13 doing so under penalty of perjury. That doesn't  
14 change.

15 You add also to the form a clear if not bolded  
16 statement: I hereby direct and authorize the agency  
17 who disburses benefits to me to confirm to the  
18 Missouri Public Service Commission or any delegate  
19 thereof that I am an actual program beneficiary and to  
20 provide any documents that the Missouri Public Service  
21 Commission or its Staff may request to assure itself  
22 of that.

23 That's all you really need to do, because the  
24 other piece of the rule, the validation rule, which  
25 McBride never even looked to see whether it was done,

1 already gives the authority for records that can  
2 lawfully be made available for the agencies  
3 administering qualifying programs.

4 COMMISSIONER CLAYTON: Let me ask Staff  
5 this. How many programs make one eligible for  
6 Lifeline?

7 Is this Lifeline, the state Lifeline, I guess?

8 MR. SHEPHERDLY: In low-income there's  
9 seven programs and then for disabled there's six  
10 programs.

11 COMMISSIONER CLAYTON: So, we have 13  
12 different programs that make one eligible?

13 MR. SHEPHERDLY: Yes.

14 COMMISSIONER CLAYTON: So, to do that we  
15 have to go through 13 different agencies at the  
16 Federal and state level to determine eligibility; is  
17 that right?

18 MR. SHEPHERDLY: No, there's probably --

19 COMMISSIONER CLAYTON: Seven or eight?

20 MR. SHEPHERDLY: Yes. I have that there's  
21 five programs.

22 COMMISSIONER CLAYTON: Let me throw this  
23 idea out at you. Rather than AT&T do the  
24 certification, let's say a state agency -- let's say  
25 it's Mr. Shepherdly's job. This is his job to test

1 eligibility.

2 Is that what you are suggesting, that it's the  
3 government officials that ought to be the ones doing  
4 the certification?

5 MR. GRYZMALA: I'm not sure I know what you  
6 mean. I envision --

7 COMMISSIONER CLAYTON: Make him take the  
8 application, and he accepts the application and  
9 approves people for eligibility.

10 He's getting very nervous and he's breaking into a  
11 sweat right now because I'm suggesting this, but I'm  
12 throwing out another possibility here.

13 You want other government officials to do the  
14 certification? Would that be more helpful, would that  
15 be more --

16 MR. GRYZMALA: I'm not sure it would be. I  
17 somewhat envisioned a situation where one government  
18 agency would be interacting directly with another  
19 agency in a common end, that is, to ensure that  
20 low-income money is being properly spent. I don't  
21 mean -- I'm not trying to sidestep your question.

22 COMMISSIONER CLAYTON: I'm used to it.

23 MR. GRYZMALA: I'm not sure what  
24 Mr. Shepherdly would be doing by certifying. Are you  
25 saying that instead of these forms coming into the

1 telephone company they come into the Staff, is that  
2 what you are saying?

3 COMMISSIONER CLAYTON: Uh-huh.

4 MR. GRYZMALA: That's another system.  
5 Because we still need the application -- we need some  
6 signal that this customer is good to go. Because  
7 under the current rules, we can hook a customer up,  
8 and so long as we get it -- if I recall properly --  
9 within 60 days, the prepared application form -- and  
10 we back-credit the customer, you know.

11 We can either hold the order and say,  
12 Mr. Gryzmala, your mom, if she wants, she can have  
13 service today, and once you get the form to us we'll  
14 take care of that monthly service charge that already  
15 accrued. Or we can say, if you want we can hold your  
16 order until you want to send us the form, whichever  
17 you want to do.

18 COMMISSIONER CLAYTON: Okay. Thank you.

19 How long have you all known about AT&T's  
20 objections to this rule?

21 MS. KLIETHERMES: Their comments were filed  
22 at 10:09 and 48 seconds this morning.

23 COMMISSIONER CLAYTON: So, no one has ever  
24 communicated to anyone on Staff -- you have? So, you  
25 have known for a while.

1           Come up Natelle, Shepherdly has had enough up  
2 here.

3                               NATELLE DIETRICH,

4           Of lawful age, being first duly sworn by the  
5 Notary Public, testified as follows:

6                       MS. DIETRICH: When we first started the  
7 rulemaking and the first drafted language, like  
8 Mr. Gryzmala said, it was shared with the industry,  
9 and they provided feedback, as well as some other  
10 people, and we did make changes to the ruling based on  
11 the feedback we received.

12           The one thing we did not do is remove the  
13 documentation spreadsheet concept. At that point, if  
14 I remember correctly, we even included the spreadsheet  
15 at that point recognizing that you see the  
16 documentation but there are some concerns about  
17 privacy and whether you should keep that documentation  
18 or not. So, set up a spreadsheet, or some format  
19 where you record what you saw, and then destroy the  
20 documentation and that will satisfy us.

21           I can't remember if that was before or after we  
22 received the informal comments from the industry.

23                       COMMISSIONER CLAYTON: But were you  
24 aware -- I mean, obviously, even with the changes  
25 there were objections from AT&T about this. Were you



1 aware of those objections?

2 MS. DIETRICH: Right. And we did  
3 include -- when we did the system analysis we did  
4 include some money for the category of  
5 telecommunications carriers, that includes AT&T, based  
6 on the outstanding concerns. Recognizing that there  
7 were concerns, we included a fiscal impact for that.

8 COMMISSIONER CLAYTON: I wasn't aware of  
9 the objection. This was supposed to be the one easy  
10 hearing today. I'm going to stop asking questions and  
11 let others ask questions. Thank you, Mr. Gryzmala.

12 JUDGE DALE: I just had one quick question.

13 I understand that you have talked about the  
14 spreadsheet, but do you guys retain -- does AT&T  
15 retain the forms, the physical forms that the  
16 customers send in?

17 MR. GRYZMALA: Subject to check, but the  
18 best memory I have on that, Judge Dale, is that we do  
19 PDF them. If I understand, we PDF them -- and we  
20 discard the paper -- so that they can be recovered for  
21 audit purposes or we can identify.

22 JUDGE DALE: I understand your concern with  
23 having your employees be verifiers. Leaving that  
24 aside, is it possible to simply mark on the form that  
25 documentation was received? Staff?

1           MR. GRYZMALA: I suppose, if a person or a  
2 rep knows what they are looking at. I don't know what  
3 kind of documentation is going to be in that envelope.  
4 In theory, you could always note on the one document  
5 that another document was received. I agree with  
6 that, in theory.

7           MR. SHEPHERDLY: The proposed rule says  
8 that each company shall develop a process for  
9 recording the type of documentation. But what you are  
10 talking about there is verification that you have  
11 received the documentation and verified on the form.  
12 To me, that would suffice.

13          JUDGE DALE: So, it's up to the companies  
14 if they want to do something like a spreadsheet or  
15 something like that?

16          MR. SHEPHERDLY: It defines the process,  
17 and of course the Commission or the PSC could ask for  
18 that process.

19          JUDGE DALE: Thank you. That's all I have.  
20 Is there any other party in the room who wishes to  
21 make comments?

22          In that case we will adjourn and be off the  
23 record. Thank you.

24          (WHEREIN, the recorded portion of the hearing was  
25 concluded.)

1	I N D E X	
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4	MICHAEL SHEPHERDLY	3
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7	NATELLE DIETRICH	32
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## 1 CERTIFICATE OF REPORTER

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4 I, Mindy Vislay, Certified Court Reporter with the  
5 firm of Midwest Litigation Services, and Notary Public  
6 within and for the State of Missouri, do hereby  
7 certify that I was personally present at the  
8 proceedings had in the above-entitled cause at the  
9 time and place previously described; that I then and  
10 there took down in Stenotype the proceedings had; and  
11 that the foregoing is a full, true and correct  
12 transcript of such Stenotype notes so made at such  
13 time and place.

14

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18 \_\_\_\_\_  
Mindy Vislay, CCR

19 Notary Public (County of Cole)

20 My commission expires March 19, 2011

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