

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of an Investigation in which to)	
Gather Information about the Facility Extension)	
Practices of ETCs Eligible to Receive)	<u>File No. TO-2016-0</u>
High Cost USF Support)	

MOTION TO OPEN AN INVESTIGATORY DOCKET

COMES NOW the Staff of the Missouri Public Service Commission and moves the Missouri Public Service Commission (Commission) to open an investigatory docket in which to gather information about the facility extension practices of Eligible Telecommunications Carriers (“ETCs”) eligible to receive High Cost USF Support. The Staff states as follows:

1. The ETCs subject to this inquiry are only those eligible to receive “High Cost” funding from the federal Universal Service Fund (“USF”). The Missouri USF does not have a high cost component.

2. The Commission annually certifies to the FCC and the Universal Service Administrative Corporation that High Cost funding the Companies received “was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended” (see 47 CFR §54.314), which services include the following:

§54.201 Definition of eligible telecommunications carriers, generally.

(a) Carriers eligible to receive support.

(1) Only eligible telecommunications carriers designated under this subpart shall receive universal service support distributed pursuant to subparts D and E of this part. Eligible telecommunications carriers designated under this subpart for purposes of receiving support only under subpart E of this part must provide Lifeline service directly to qualifying low-income consumers

(d) A common carrier designated as an eligible telecommunications carrier under this section shall be eligible to receive universal service support in accordance with section 254 of the Act and, except as described in paragraph (d)(3) of this section, shall throughout the service area for which the designation is received:

(1) Offer the services that are supported by federal universal service support mechanisms under subpart B of this part and section 254(c) of the Act, either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and

(2) Advertise the availability of such services and the charges therefore using media of general distribution.

(3) *Exception.* Price cap carriers that serve census blocks that are identified by the forward-looking cost model as low-cost, census blocks that are served by an unsubsidized competitor as defined in §54.5 meeting the requisite public interest obligations specified in §54.309, or census blocks where a subsidized competitor is receiving federal high-cost support to deploy modern networks capable of providing voice and broadband to fixed locations, are not required to comply with paragraphs (d)(1) and (2) of this section in these specific geographic areas. Such price cap carriers remain obligated to maintain existing voice telephony service in these specific geographic areas unless and until a discontinuance is granted pursuant to §63.71 of this chapter. [remaining paragraphs omitted]

§54.202 Additional requirements for Commission designation of eligible telecommunications carriers.

(a) In order to be designated an eligible telecommunications carrier under section 214(e)(6), any common carrier in its application must:

(1)(i) Certify that it will comply with the service requirements applicable to the support that it receives.

(ii) Submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network throughout its proposed service area. Each applicant shall estimate the area and population that will be served as a result of the improvements. Except, a common carrier seeking designation as an eligible telecommunications carrier in order to provide supported services only under subpart E of this part does not need to submit such a five-year plan.

(2) Demonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.

(3) Demonstrate that it will satisfy applicable consumer protection and service quality standards. A commitment by wireless applicants to comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service will satisfy this requirement. Other commitments will be considered on a case-by-case basis.[Remaining paragraphs and subsections are omitted.]

3. A Carrier of Last Resort (“CoLR”) includes

any telecommunications company which is obligated to offer basic local telecommunications service to all customers who request service in a geographic area defined by the commission and cannot abandon this obligation without approval from the commission. §386.020(6) RSMo 2015.

As a general rule, incumbent telecommunications companies that receive High Cost support carry an obligation to serve all customers, unless certain standards are met, which are set out in federal law under §54.201(d)(3) above. Missouri law, in §392.460.3 RSMo 2015, provides some guidance about CoLRs and when they are required and when they are not (although as will be seen below, these sections may offer insight, but may not be applied to any Company that has not chosen to be subject of this section). Section 392.460.10 provides as follows:

An incumbent local exchange carrier shall have the right to require a payment from an owner or developer in cases where the costs of extending facilities to serve a multitenant business or residential property, including, but not limited to, apartments, condominiums, subdivisions, office buildings, or office parks are not economically reasonable. The terms and conditions applicable to such payments shall be specified in the incumbent local exchange carrier's tariffs. An incumbent local exchange carrier shall not be obligated to provide local voice service or any other telecommunications service without payment specified in the incumbent local exchange carrier's tariff.

4. On August 28, 2013, a change was made to Missouri Telecommunications

Law:

392.611. 1. A telecommunications company certified under this chapter or holding a state charter authorizing it to engage in the telephone business shall not be subject to any statute in chapter 386 or this chapter (nor any rule promulgated or order issued under such chapters) that imposes duties, obligations, conditions, or regulations on retail telecommunications services provided to end-user customers, except to the extent it elects to remain subject to certain statutes, rules, or orders by notification to the commission.

* * *

3. Notwithstanding any other provision of this section, a telecommunications company shall not be exempt from any commission rule established under authority delegated to the state commission under federal statute, rule, or order,

including, but not limited to, universal service funds, number pooling, and conservation efforts. Notwithstanding any other provision of this section, nothing in this section extends, modifies, or restricts any authority delegated to the state commission under federal statute, rule, or order to require, facilitate, or enforce any interconnection obligation or other intercarrier issue including, but not limited to, intercarrier compensation, network configuration or other such matters. Notwithstanding any other provision of this section, nothing in this section extends, modifies, or restricts any authority the commission may have arising under state law relating to interconnection obligations or other intercarrier issue including, but not limited to, intercarrier compensation, network configuration, or other such matters.

5. Since before that law was changed, telecommunications companies have assessed charges for extending a service line or loop to a customer's location if that location is more than a stated number of feet from the nearest telecommunications company infrastructure. However, the Staff has recently received inquiries in which the customers argue that the charges for extending service to them is too high. The Staff received an inquiry in which the customer was told that a Company would charge \$5800 to enable the customer to receive service, and that, at best, the customer will only have dial-up internet service. Another customer noted that a Company estimates a \$2000 charge in order to lay a 25-pair cable (significantly in excess of the customer's needs) and install another pedestal (a facilities extension of 250 feet). A third customer was to be charged \$3300 for a facilities extension of 1320 feet.

6. Those customers asked if additional customers were added to the portion of the plant the customer paid for, would they get a refund? One potential customer reported to Staff that a company engineer told the customer they would not receive any rebate because once the facilities were built they belonged exclusively to the company, without regard to who paid for them.

The customer has no ownership interest in those facilities that extend from the network interface device ("NID"), usually on the side of a customer's building, to the

company's infrastructure, whether those facilities are on the customer's property or not. The Company may use those facilities as it determines is proper, including to connect other customers to its service. The customer has no choice as to the actual kind of facilities (twisted copper pair or fiber-optic cable) or the manner of deployment (buried or overhead).

7. Under §392.461, Companies are no longer required to file and maintain tariffs and instead have the option of posting retail terms and rates on a public web site. These web sites can be difficult to navigate. If Companies do file retail tariffs, the Staff has no authority to require any alteration or clarification of terms and rates as proposed. This makes it difficult for customers and the Staff to determine whether construction charges will apply in a given situation and if so, the anticipated amount in construction charges. One of the purposes of this investigatory docket will be to ascertain how an ETC receiving high cost support responds to service requests if facilities are not present to serve the customer.

8. This investigation will also attempt to evaluate how often construction charges are applied to service requests, and how many service requests are unfilled. For instance, Companies are required to annually report the number of unfilled service requests on FCC Form 481. This form is annually filed with the Commission and the FCC as part of the annual high-cost certification process. The Staff suspects that when a customer abandons its request for service after receipt of a high estimate of the customer's required contribution, the request for service is not tallied in the unfilled service requests, but is treated as if it never existed. This investigation will explore how companies track unfilled service requests.

9. Attachment A reflects the type of information that should be solicited from any company receiving high-cost support. Attachment B is the list of companies to whom those inquiries should be sent. The Staff requests that the Commission issue an Order requiring those listed companies to file a response in this docket to the questions set forth in Attachment A on or before a set deadline. The Staff asks that the companies file responses in this matter without being required to copy their comments to other listed participants in this matter.

10. The Staff requests that the Commission, in opening this docket, clearly note that this is not a contested case. The Staff will not take any action in this case beyond reporting to the Commission its findings.

WHEREFORE, the Staff respectfully moves the Commission to open an investigatory docket in which to gather information about the facility extension practices of ETCs eligible to receive High Cost USF Support.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', is positioned above the typed name and contact information.

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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 January, 2016.

A handwritten signature in black ink, appearing to be "C. M. Daly", is written over the text of the certificate.

Attachment A

Questions for companies receiving high-cost USF support regarding service requests in areas where the company lacks sufficient facilities to provide service.

1. Provide a direct link to the specific portion of a company's website or alternatively cite the specific portion of a company's tariff that describes the charges, allowances and other relevant information for line extensions or situations where facilities are not in place to fulfill an applicant's request for service.
2. Does your company not apply any construction or similar one-time charges if the distance to extend facilities is within a certain distance? If yes, what is the maximum distance whereby the company will not apply any special charges to extend facilities?
3. Does your company provide the customer with a certain dollar allowance for construction costs to extend facilities? If yes, what is the allowance?
4. Are charges for extending facilities applied based on a set formula (i.e., \$100 per 1/10 mile) or alternatively are charges determined on an individual case basis?
 - a. If charges are based on a set formula then identify the formula.
 - b. If charges are based on an ICB basis then:
 - i. Explain what types of costs are identified to form the basis for these charges.
 - ii. Approximately what percent of all costs for extending facilities is the customer expected to pay?
5. If a customer agrees to pay special construction charges and facilities are installed, does the company generally install sufficient facilities to serve other neighboring customers in the subdivision or nearby area? If yes, explain what happens, if anything, to the initial customer as well as any subsequent customers requesting service in that area. For example are subsequent customers assessed any special construction charges? Can the initial customer receive a credit or refund? Explain how the company handles such situations.
6. If the company lacks facilities to provide service is the customer required to agree to any special terms or conditions for obtaining service (i.e., subscribe to service for a minimum length of time) that typically are not applied to other customers where sufficient facilities are in place? If yes, describe such any terms or conditions.

7. Does your company apply any termination charge(s) if a customer fails to subscribe to service for a certain length of time? If yes, identify the charge(s).
8. How long have the existing policies in response to Questions 1 thru 7 been in place in Missouri?
9. If your company operates in other states besides Missouri does the company apply the same policies (as provided in responses to Questions 1 thru 7) in these other states for service requests in areas where the company lacks sufficient facilities to provide service? If yes, identify the states. If no, identify the states and explain how and why the company's policies differ.
10. Describe or provide a script of what information is provided by the company to the customer if the company lacks facilities to respond to the customer's service request.
11. Please provide the following information for your company's Missouri operations for the most recent 12 month time period:
 - a. Total requests for service.
 - b. Service requests for an area where the company lacks sufficient facilities to provide service. Among these requests break this number down into the following categories:
 - i. Number of requests where the company installed facilities without applying special construction or similar charges.
 - ii. Number of requests where the customer paid the construction charges.
 - iii. Number of requests where the customer declined to pay the construction charges and service was not installed.
 - iv. Other. Explain.
12. Does the company consider an unfilled service request as reported in Form 489 to include a customer who requests service but ultimately declines to pay construction or similar charges? If no, explain why not.
13. Please provide the following information for any customer requesting service in the past 12 months whereby the company attempted to apply construction or similar charges in order to have service be extended to the customer:
 - a. Name of applicant.
 - b. Location of applicant.
 - c. Total amount of construction charges.

d. Indicate whether the customer paid the charges and service was installed.

14. If a company has detariffed is the link provided in response to Question No. 1 a link to the company's rates and charges for all other retail services or is the link to some other separate document?

Attachment B

Companies with Status to Receive High-Cost USF Support in Missouri

Company
Alma Telephone Company
American Wireless, Inc.
BPS Telephone Company
CenturyTel of Missouri, LLC d/b/a CenturyLink
CenturyTel of Northwest Arkansas, LLC d/b/a CenturyLink
Chariton Valley Telecom Corporation
Chariton Valley Telephone Corporation
Choctaw Telephone Company
Citizens Telephone Company of Higginsville, Missouri
Craw-Kan Telephone Cooperative, Inc.
Ellington Telephone Company
Embarq Missouri Inc. d/b/a CenturyLink
Farber Telephone Company
FairPoint Communications Missouri, Inc.
Fidelity Communications Services I, Inc.
Fidelity Telephone Company
Goodman Telephone Company
Granby Telephone Company
Grand River Mutual Telephone Corporation d/b/a GRM Networks
Green Hills Telephone Corporation
Green Hills Cellular Telephone d/b/a Green Hills Telecommunications Services
Holway Telephone Company d/b/a American Broadband
Iamo Telephone Company
Kingdom Telephone Company
KLM Telephone Company d/b/a American Broadband
Lathrop Telephone Company d/b/a LTC Networks
Le-Ru Telephone Company
Mark Twain Communications Company
Mark Twain Rural Telephone Company
McDonald County Telephone Company
Otelco Mid-Missouri LLC
Miller Telephone Company
MoKan Dial, Inc.
Missouri RSA No. 5 Limited Partnership d/b/a Chariton Valley Wireless Services
New Florence Telephone Company
New London Telephone Company
Northeast Missouri Rural Telephone Company
Northwest Missouri Cellular Limited Partnership
Orchard Farm Telephone Company
Oregon Farmers Mutual Telephone Company

Ozark Telephone Company
Peace Valley Telephone Company, Inc.
Rock Port Telephone Company
Seneca Telephone Company
Spectra Communications Group, LLC d/b/a CenturyLink
Steelville Telephone Exchange, Inc.
Stoutland Telephone Company
USCOC of Greater Missouri, LLC d/b/a U.S. Cellular
Windstream Missouri, Inc.