

# Jason Kander

Secretary of State  
Administrative Rules Division

## RULE TRANSMITTAL

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SECRETARY OF STATE  
ADMINISTRATIVE RULES

Rule Number 4 CSR 240-28.010

Use a "SEPARATE" rule transmittal sheet for EACH individual rulemaking.

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### TYPE OF RULEMAKING ACTION TO BE TAKEN

- ☐ Emergency rulemaking, include effective date  
☐ Proposed Rulemaking  
☐ Withdrawal ☐ Rule Action Notice ☐ In Addition ☐ Rule Under Consideration  
☐ Request for Non-Substantive Change  
☐ Statement of Actual Cost  
☒ Order of Rulemaking

Effective Date for the Order \_\_\_\_\_

☐ Statutory 30 days OR Specific date \_\_\_\_\_

Does the Order of Rulemaking contain changes to the rule text? ☐ NO

☒ YES—LIST THE SECTIONS WITH CHANGES, including any deleted rule text:

Sections (11), (13), (14), (15), (16), and (17) have been amended.

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JOINT COMMITTEE ON  
AUG 26 2015  
ADMINISTRATIVE RULES



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Chief Staff Counsel

Jason Kander  
Secretary of State  
Administrative Rules Division  
600 West Main Street  
Jefferson City, Missouri 65101

Re: 4 CSR 240-28.010 Definitions

Dear Secretary Kander,

CERTIFICATION OF ADMINISTRATIVE RULE

I do hereby certify that the attached is an accurate and complete copy of the order of rulemaking lawfully submitted by the Missouri Public Service Commission.

Statutory Authority: sections 386.040, 386.250, 386.310, and 392.461, RSMo 2000 and 392.450, RSMo Supp. 2013

If there are any questions regarding the content of this proposed rulemaking, please contact:

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Morris L. Woodruff  
Chief Regulatory Law Judge

Enclosures

**Title 4 – DEPARTMENT OF ECONOMIC DEVELOPMENT  
Division 240 – Public Service Commission  
Chapter 28 – Telecommunications IVoIP, Video Services**

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**ORDER OF RULEMAKING**

By the authority vested in the Public Service Commission under sections 386.040, 386.250, and 386.310 RSMo 2000, section 392.450 RSMo (Cum. Supp. 2013, and section 392.461, RSMo (Supp. 2014), the commission adopts a rule as follows:

**4 CSR 240-28.010 Definitions is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on May 1, 2015 (40 MoReg 555). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** The public comment period ended June 29, 2015, and the commission held a public hearing on the proposed rule on July 6, 2015. The commission received timely written comments from the Staff of the Commission (Staff); the Missouri Telecommunications Industry Association (MTIA); Southwestern Bell Telephone Company, d/b/a AT&T Missouri (AT&T); CenturyTel of Missouri, LLC d/b/a CenturyLink, Embark Missouri, Inc., d/b/a CenturyLink, Spectra Communications Group, LLC d/b/a CenturyLink, and CenturyTel of Northwest Arkansas, d/b/a CenturyLink (CenturyLink); the Missouri Cable Telecommunications Association (MCTA); Verizon; and Level 3 Communications (Level 3). In addition, the following people offered comments at the hearing: Kenneth A. Schiffman, for Sprint Communications Company, LP (Sprint); Leo Bub for AT&T; William D. Steinmeier and Pamela Halleck for Level 3; Stephanie Bell for MCTA; Becky Owenson Kilpatrick for CenturyTel; Richard Telthorst for MTIA; Matthew Feil for Windstream; and Colleen M. Dale and John Van Eschen for Staff.

**COMMENT #1:** The proposed definition of "access line" in section 28.010(1) indicates it applies to lines used to provide either basic local telecommunications service or IVoIP service. Verizon contends the definition of "access line" should exclude IVoIP services because IVoIP services can be provided wirelessly and do not need to use a physical access line. In response, Staff explained the

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definition of “access line” applies to the term’s usage in section 28.050(3), which concerns requirements for the Relay Missouri assessment, for which IVoIP providers are responsible. Staff advises the Commission to not change the definition.

**RESPONSE:** The Commission agrees with its staff and will not make the proposed change.

**COMMENT #2:** The definition of “Intrastate” in section 28.010(9) refers to both telecommunications and IVoIP services. Verizon contends the definition should not include IVoIP service, as all IVoIP services are inherently interstate, and therefore subject to exclusive federal jurisdiction. Staff explains that the term “intrastate” is used in the rule to describe assessments and revenue reporting requirement that do apply to IVoIP services. Staff advises the Commission not to change the definition.

**RESPONSE:** The Commission agrees with its staff and will not make the proposed change.

**COMMENT #3:** The definition of “net jurisdictional revenue” section 28.010(10) refers to the definition found in 4 CSR 240-31.010(17). Staff explains that the term “telecommunications” was inadvertently left out of the chapter 31 definition when that rule was revised a few years ago. The Commission cannot correct section 31.010 in this rulemaking and staff recommends the commission leave the citation to the chapter 31 definition unchanged. The chapter 31 definition will ultimately need to be changed in a separate rulemaking. No other comments addressed this definition.

**RESPONSE:** The Commission agrees with its staff and will not change the proposed definition.

**COMMENT #4:** MTIA proposes a revision to section 28.010(11)'s definition of "non-switched local exchange telecommunications service" to clarify that such service can be purchased to connect multiple customer locations. Staff supports that revision.

**RESPONSE AND EXPLANATION OF CHANGE:** The commission agrees with the suggested revision to the definition and will incorporate it into the rule.

**COMMENT #5:** MCTA points out a typographical error in section 28.010(13)'s definition of "Registration." There is an extraneous "the" in the proposed definition.

**RESPONSE AND EXPLANATION OF CHANGE:** The commission will correct the error in the definition.

**COMMENT #6:** Staff recommends that section 28.010(14)'s definition of "retail service" be deleted as unnecessary because the defined term is not used in the rule.

**RESPONSE AND EXPLANATION OF CHANGE:** The commission agrees with staff and will delete the definition from the rule. All subsequent sections will be renumbered accordingly.

**COMMENT #7:** MTIA proposes to remove section 28.010(16)'s definition of "switched access service" and to remove the only reference to "switched access service" in the rules, and instead refer to exchange access services in that section of the rule, 28.070(1). Staff also recommends this definition be removed.



**RESPONSE AND EXPLANATION OF CHANGE:** The commission agrees with the comment and will remove the definition from this rule. The commission will address the suggested change in section 28.070(1) in that rulemaking. All subsequent sections in this rule will be renumbered accordingly.

**COMMENT #8:** MTIA comments that section 28.010(17)'s definition of "tariff" refers to tariff documents being "submitted to" the commission. MTIA believes such documents are "filed with" the commission and would change the definition accordingly. Staff replied that if such documents are "submitted to", rather than "filed with" the commission and recommends the definition not be changed.

**RESPONSE:** This comment concerns a semantical disagreement that has no real effect on the definition. Since Staff prefers "submitted to", the commission will not change the definition.

#### **4 CSR 240-28.010 Definitions**

(11) Non-switched local exchange telecommunications service—Service connecting customer locations within an exchange to other points within the exchange provisioned by facilities dedicated to these locations and points, and which facilities do not switch the service to other locations and points.

(13) Registration—The granting of a registration to provide interconnected voice over Internet protocol service or video service by the commission.

(14) Shared tenant service—Generally the provisioning of a commercially shared telecommunications service provided to residents in a building or a common limited geographic area.

(15) Tariff—A document submitted to the commission identifying the telecommunications services offered by a company and also identifying the rates, terms, and conditions for the use of such services.

(16) Total Missouri Jurisdictional Operating Revenue—A company's total revenue associated with the provisioning of intrastate telecommunications and IVolP services. This revenue includes a company's net jurisdictional revenue, wholesale revenues, and any revenue received from the Missouri Universal Service Fund minus wholesale uncollectibles. Total Missouri jurisdictional operating revenue is annually reported and is used for the commission assessment.

(17) Wholesale service—Telecommunications or IVolP services provided to other telecommunications or IVolP service providers.