

Robin Carnahan
Secretary of State
Administrative Rules Division
RULE TRANSMITTAL

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SECRETARY OF STATE
ADMINISTRATIVE RULES

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A "SEPARATE" rule transmittal sheet **MUST** be used for EACH individual rulemaking.

A. Rule Number 4 CSR 240-3.570

Diskette File Name Order of Rulemaking 4 CSR 240-3.570

Name of person to call with questions about this rule:

Content Natelle Dietrich Phone 573-751-7427 FAX 573-751-9285

E-mail address marc.poston@psc.mo.gov

Data entry Natelle Dietrich Phone 573-751-7427 FAX 573-751-9285

E-mail address natelle.dietrich@psc.mo.gov

Interagency mailing address GOB, 200 Madison Street, 8th Floor, Jefferson City

Statutory Authority 386.250

Current RSMo date Supp. 2005

Date filed with the Joint Committee on Administrative Rules : March 7, 2006

B. CHECKLIST guide for rule packets:

☐ This transmittal completed

☐ Cover letter

☐ Affidavit

☐ Small business impact statement

☐ Fiscal notes

☐ Forms, number of pages _____

☐ Authority section with history of the rule

☐ Public cost statement

☐ Private cost statement

☐ Hearing date

C. RULEMAKING ACTION TO BE TAKEN

☐ Emergency rulemaking (choose one) ☐ rule, ☐ amendment, ☐ rescission, or ☐ termination

MUST include effective date _____

☐ Proposed Rulemaking (choose one) ☐ rule, ☐ amendment, or ☐ rescission

☒ Order of Rulemaking (choose one) ☒ rule, ☐ amendment, ☐ rescission, or ☐ termination

MUST complete page 2 of this transmittal

☐ Withdrawal (choose one) ☐ rule, ☐ amendment, ☐ rescission or ☐ emergency)

☐ Rule action notice ☐ In addition ☐ Rule under consideration

D. SPECIFIC INSTRUCTIONS: Any additional information you may wish to provide to our staff _____

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Small Business Regulatory
Fairness Board

JCAR Stamp

JOINT COMMITTEE ON

MAR 07 2006

ADMINISTRATIVE RULES

RULE TRANSMITTAL (PAGE 2)

E. ORDER OF RULEMAKING: Rule Number 4CSR 240-3.570

1a. Effective Date for the Order

☒ Statutory 30 days

Specific date 4-6-06

1b. Does the Order of Rulemaking contain changes to the rule text?

☒ YES

☐ NO

1c. If the answer is YES, please complete section F.

If the answer is NO, **STOP** here.

F. Please provide a complete list of the changes in the rule text for the order of rulemaking, indicating the specific section, subsection, paragraph, subparagraph, part, etc., where each change is found. It is especially important to identify the parts of the rule that are being deleted in this order of rulemaking. Give an explanation of each section, subsection, etc. which has been changed since the proposed rulemaking was published in the Register.

see list as attached

NOTE: ALL changes MUST be specified here in order for those changes to be made in the rule as published in the *Missouri Register* and the *Code of State Regulations*.

Title 4—Rules of Department of Economic Development
Division 240—Public Service Commission
Chapter 3 – Filing and Reporting Requirements

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ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.040, 386.250, 392.451 and 392.470 RSMo 2000, the Commission adopts a rule as follows:

4 CSR 240-3.570 is adopted

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on December 1, 2005 (30 MoReg 2479-2485). Those sections with changes are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

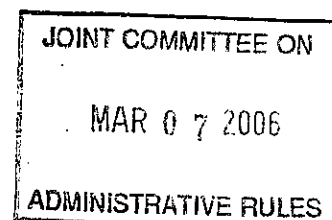
SUMMARY OF COMMENTS: A hearing was held on January 6, 2006 and January 10, 2006 in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Oral testimony and written comments were received during the comment period regarding proposed rule 4 CSR 240-3.570. The record was held open until January 17, 2006 for additional comments and exhibits. Written comments supporting the rule, opposing the rule, and/or suggesting changes to the rule were received from the Office of the Public Counsel (OPC), the Small Telephone Company Group (STCG), the Missouri Independent Telephone Group (MITG), Alltel Communications, Inc. (Alltel), Spectra Communications Group, LLC d/b/a CenturyTel and CenturyTel of Missouri, LLC (collectively "CenturyTel"), Southwestern Bell Telephone, L.P. d/b/a AT&T Missouri ("AT&T"), the Staff of the Missouri Public Service Commission (Staff), and USCOC of Greater Missouri, LLC d/b/a U.S. Cellular (USC).

COMMENTS: Alltel and USC commented that Commission should not adopt the rule as proposed, but rather should adopt the FCC's ETC rules with limited exceptions.

RESPONSE: The FCC offered its ETC rules as guidelines to state commissions and encouraged state commissions to adopt additional requirements if necessary to analyze whether an ETC designation is in the public interest. No changes have been made to the rule as a result of these comments.

COMMENTS: Alltel and Staff commented that the Commission should require a two-year build out plan rather than a 5-year build-out plan. AT&T commented that a five-year network improvement plan should include the detailed requirements adopted by the FCC.

RESPONSE AND EXPLANATION OF CHANGE: The Commission finds that a 2-year build-out plan is sufficient, provided that the carriers are required to submit an updated, rolling 2-year build-out plan with their annual certification filing.



COMMENTS: Alltel commented that there is no basis for requiring state specific service quality rules to be applied to ETCs that are not otherwise subject to those rules. USC commented that it would be unreasonably burdensome to require carriers with operations in multiple states to modify network, billing, and training systems to track and report compliance with the proposed rule. USC further commented that the requirement to require alternative local exchange carriers and wireless ETCs to abide by selected provisions of Chapter 32 should be deleted. CenturyTel commented that competitive and wireless ETCs should be required to comply with the same customer service, service quality, and consumer obligations as are required of the regulated incumbent local exchange carriers.

RESPONSE AND EXPLANATION OF CHANGE: The Commission finds that alternative local exchange carriers and incumbent local exchange carriers are required to abide by Chapter 32. The Commission further finds that quality of service requirements should not be imposed on wireless ETCs at this time and will amend the rule accordingly.

COMMENTS: Alltel commented that the Commission should refrain from applying the Missouri billing rules to ETCs since costly requirements could be a deterrent to potential applicants seeking ETC status in Missouri. USC commented that subsection (9) regarding bill design should be stricken as redundant since all carriers, including wireless providers, are subject to the FCC's truth-in-billing rules. The STCG commented that the proposed rule should go further and also require the competitive ETCs to comply with Chapter 33, Service and Billing Practices. The STCG further commented that the competitive ETCs should be regulated on the same basis and to the same extent as the incumbent ETC. CenturyTel commented that competitive and wireless ETCs should be required to comply with the same service and billing obligations in Chapter 33 as are required of the regulated incumbent ETC. Staff commented that this section of the proposed rule requires ETCs to comply with state and federal billing requirements. Staff suggested the clause "and shall not represent that the carrier's discretionary cost recovery fees are taxes or government fees" be removed since this concept is incorporated in existing state and federal rules.

RESPONSE AND EXPLANATION OF CHANGE: The Commission finds that the proposed rule simply requires ETCs to comply with existing state and federal rules and does not impose any additional state-specific requirements on carriers. The Commission also finds that it will remove the clause "and shall not represent that the carrier's discretionary cost recovery fees are taxes or government fees" as suggested by the Staff.

COMMENTS: AT&T commented that the Commission should add a new subpart (2)(F) to specifically require that an ETC applicant must demonstrate that the Commission's grant of the request for ETC designation would be consistent with the public interest, convenience and necessity. The Staff supported this suggested change in testimony at the public hearing.

RESPONSE AND EXPLANATION OF CHANGE: The Commission concurs and finds that this clarification should be added since a public interest determination is a key component to the granting of ETC designation.

COMMENTS: AT&T commented that the Commission should modify subsections (7) and (24)(F) to require that the applicant acknowledge that the FCC *may* require them to provide equal access in the event that no other ETC is providing equal access within the service area.

USC commented that the proposed rule is unclear on when a competitive ETC may be required to provide equal access to interexchange carriers. USC also commented that the equal access requirement appears to be unlawful because a wireless providers' obligation to provide equal access requires an FCC finding that subscribers are denied access to their chosen toll provider and that such denial is contrary to the public interest, convenience and necessity under 47 U.S.C. § 332(c)(8). To remove any confusion, the Staff, in a supplemental comment filing, suggested the section be changed to require the applicant to acknowledge that it shall be required to provide equal access consistent with 4 CSR 240-32.100(3) and (4).

RESPONSE AND EXPLANATION OF CHANGE: The Commission finds that Staff's revisions should be made which clarifies that equal access is only required if order by the commission or the FCC and will modify the rule to alleviate any confusion.

COMMENTS: AT&T commented that the Commission should add a definition that would specify the meaning of a "reasonable request for service." In testimony, the Staff stated it did not oppose this suggested change.

RESPONSE AND EXPLANATION OF CHANGE: The Commission concurs and finds that a definition of "reasonable request for service" should be added to the rule.

COMMENTS: AT&T commented that the Commission should add text that would expressly require further detail regarding the carrier's ability to remain functional in emergency situations. In testimony, the Staff stated it did not oppose this suggested change.

RESPONSE AND EXPLANATION OF CHANGE: The Commission finds that the rule should be changed to require further detail regarding emergencies.

COMMENTS: Alltel commented that (10)(A)5 was confusing as it seems to require a carrier to provide Phase 2 service even if it has not been requested.

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees with Alltel's comment and finds the rule should be changed to clarify the requirement exists where the local government agency has implemented enhanced 911 systems.

COMMENTS: AT&T commented that subpart (10)(C) should be clarified to delete the suggestion that an ETC's service area can be expanded since the service area is defined by the order granting ETC designation. In testimony, the Staff did not oppose this change.

RESPONSE AND EXPLANATION OF CHANGE: The Commission finds that this suggested change would clarify the rule and will modify the rule accordingly.

COMMENTS: AT&T commented that subpart (10)(D)(2)(F) should require the ETC, when responding to an ETC request, to "employ, lease or construct an additional cell site, cell-extender, repeater, or other similar equipment to provide service." In testimony, the Staff stated it did not oppose this suggested change.

RESPONSE AND EXPLANATION OF CHANGE: The Commission finds that this suggested change would improve upon the rule and will modify the rule accordingly.

COMMENTS: AT&T commented that the Commission should require more detailed information on how many requests for service from potential customers were unfulfilled for the past year.

RESPONSE: The Commission finds that this addition is not necessary. No changes have been made to the rule as a result of this comment.

COMMENTS: AT&T commented that the Commission should modify subpart (24)(F) to require more detailed certifications by the ETCs in the form of an affidavit signed by an officer of the company.

RESPONSE AND EXPLANATION OF CHANGE: The Commission finds that the affidavit requirement should be modified to include additional commitments to comply with the consumer code for wireless service.

COMMENTS: The Staff commented that the rule should be more competitively neutral throughout by removing references to specific types of carriers where possible and replacing those terms with "ETCs" or "carriers." AT&T and CenturyTel commented that removing references to competitive carriers in an effort to make the rule competitively neutral should not enlarge obligations already held by incumbent local exchange carriers in other chapters of the Commission's rules. The MITG commented that if the rule is to apply to incumbent ETCs, further procedures are necessary, including an additional rulemaking and additional hearings. The MITG further commented that it would be inappropriate to apply rules suited for competitive ETCs to incumbent ETCs. The STCG commented that expanding the rule to include incumbent ETCs could violate the published notice and fiscal impact requirements under Chapter 536. Spectra and CenturyTel commented that several reasons exist to not broaden the rule to include incumbent ETCs.

RESPONSE AND EXPLANATION OF CHANGE: The Commission finds that the rule should not be expanded to include new obligations on incumbent ETCs. The Commission will modify the rule so that incumbent ETCs are only required to comply with existing ETC requirements already applicable to the incumbent ETCs.

COMMENTS: The Staff and AT&T commented that subsection (2)(D) should be clarified to indicate that support will be used to cover expenses in addition to expenses normally incurred.

RESPONSE AND EXPLANATION OF CHANGE: The Commission finds that this suggested change would improve upon the rule and will modify the rule accordingly.

COMMENTS: The Staff commented that the subsections (4) and (5) commitments to provide local usage, Lifeline and Linkup should be clarified.

RESPONSE: The Commission agrees and finds that these areas need clarification. The Commission will change the rule consistent with the Staff's proposed revisions.

COMMENTS: The Staff commented that subsection (8) should be modified to provide for future changes to the CTIA Consumer Code for Wireless Service.

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees and finds that this suggested change would improve the rule and will modify the rule accordingly.

COMMENTS: The Staff commented that subsection (10)(D)(4) should be changed to include denied service requests in the ETC's annual certification documentation, rather than in quarterly reports. USC commented that it is unclear why the Commission would need quarterly reports of the same information given in the annual certification.

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees and finds that the rule should be changed to require denied service requests in the annual certification process.

COMMENTS: The Staff commented that subsection (17) should be expanded to require a customer service contact in all cases, not just when the carrier uses a third party billing agent.

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees and finds that this suggested change would improve the rule and will modify the rule accordingly.

COMMENTS: The Staff and USC commented that subsection (20) be deleted because it would require CMRS carriers to provide certain information not subject to the Commission's jurisdiction or related to ETC designation. For consistency with this deletion, the Staff also recommends subsection (21) be removed. USC commented that the use of the term "annual report" in subsection (20) should be defined. USC also commented that the subsection (20) reference to "official commission forms with appropriate cross-references" should be clarified.

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees with Staff and finds that the suggested deletion of sections (20) and (21) would improve the rule and will modify the rule accordingly. This deletion should also satisfy the comments made by USC regarding section (20).

COMMENTS: The Staff commented that subsection (22) should be modified to allow carriers to either notify the Telecommunications Department or update the Commission's electronic filing system when company contacts change.

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees and finds that this suggested change would improve the rule and will modify the rule accordingly.

COMMENTS: The Staff commented that the reference to the annual certification process approved in Case No. TO-2002-347 should be removed to avoid any confusion over what process is appropriate.

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees and finds that this suggested change would improve the rule and will modify the rule accordingly.

COMMENTS: The Staff commented that subsections (26) and (28) should be modified for clarification purposes.

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees and finds that this suggested change would improve the rule and will modify the rule accordingly.

COMMENTS: The Staff commented that the Commission should change subsection (29) to remove the implication that wireless ETCs must seek approval from the Commission for a name change.

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees and finds that this suggested change would improve the rule and will modify the rule accordingly.

COMMENTS: The Staff commented that a new section should be added to require ETCs to assist the Staff in comparing residential rates in rural areas served by non-rural incumbent local exchange carriers to urban rates nationwide, as required by 47 C.F.R. § 54.316.

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees and finds that this suggested change would improve the rule and will modify the rule accordingly.

COMMENTS: The Staff commented that a new section should be added to require all ETCs to comply with all sections of 4 CSR 240-3.570 prior to the October 1, 2006 annual certification date, and to submit a statement as to the ETC's compliance with this rule.

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees and finds that this suggested change would improve the rule and will modify the rule accordingly.

COMMENTS: The Staff commented that carriers with pending ETC designation requests should be required to submit information required by this rule within 30 days of the effective date of the rule.

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees and finds that this suggested change would improve the rule and will modify the rule accordingly.

COMMENTS: OPC commented that wireless carriers are not subject to the Commission's jurisdiction, but if they are accepting support through ETC status, which is authorized by the Commission, then they should abide by certain Commission regulations.

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees that certain of its rules should apply to all carriers designated as ETCs. The Commission modifies the rule to clarify that application of ETC status shall be deemed to be acceptance of Missouri Commission jurisdiction in matters related to ETC designation, annual certification and acceptance of additional rules applicable to ETCs.

COMMENTS: The Staff recommended ETCs comply with existing Commission consumer complaint processes. USC encourages the Commission to proceed cautiously when considering rules that would regulate an ETC as an incumbent local exchange carrier. USC states there are important reasons favoring less regulation of competitive ETCs because competition is a very effective driver of high-quality service, more so than regulations aimed at protecting consumers from monopoly business practices.

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees that competitive ETCs should not be regulated as incumbents. As such, the Commission removes sections 13, 14, 15, 16 and 18 of the proposed rule. Instead, the Commission will establish a requirement that competitive ETCs submit a report to the Commission as part of the annual certification on any consumer complaints filed with the Federal Communications Commission for which the company has knowledge that are directly related to the Missouri designated ETC service area.

COMMENTS: USC commented that the proposed rule consists of wireline regulations being imposed on wireless carriers with no adjustment for technology or consideration of necessity.

RESPONSE AND EXPLANATION OF CHANGE: The Commission finds that the portions of the rule will be modified so that regulations specific to wireline technology will not be imposed upon wireless carriers.

COMMENTS: USC commented that the rules should not be adopted if the record has not demonstrated that: (1) existing certification requirements are not adequate; or (2) competitive pressures and federal requirements are not sufficient to ensure CMRS ETCs will provide high-quality service.

RESPONSE: The Commission finds that the final rule as published below is fully supported by the comments and testimony received.

COMMENTS: USC commented that the Commission should revise the rule to eliminate duplicative and inconsistent filing requirements.

RESPONSE: The Commission finds that the final rule as published below does not contain duplicative or inconsistent filing requirements.

COMMENTS: USC commented that the subsection (2) and subsection (24) requirement to spend support only to "improve coverage, service quality or capacity" is inconsistent with federal law at 47 U.S.C. § 254(e), which requires all ETCs to use support on the "provision, maintenance and upgrading" of supported services and facilities. USC also commented that it would not be competitively neutral to impose this requirement on competitive ETCs and not on incumbent ETCs. Spectra and CenturyTel commented that this difference is only an attempt to address technological differences and the way services is provisioned as between wireless and wireline carriers.

RESPONSE AND EXPLANATION OF CHANGE: The Commission finds that it will not limit the use of USF support to improve coverage, service quality or capacity. However, as USC notes, the Telecommunications Act states support will only be used for the "provision, maintenance, and upgrading of facilities and services for which the support is intended." Section 254 outlines the principles for the preservation and advancement of universal service, including access in rural and high cost areas. According to 47 U.S.C. 254(b), support is intended such that, "Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications services and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar service in urban areas. Consistent with the Telecommunications Act, the Commission finds that it will include a carrier's commitment to improve coverage, service quality or capacity as a part of the Commission's public interest analysis, which will also include a demonstration that the support is used for the purpose intended.

COMMENTS: USC commented that the informational tariff requirement of subsection (12) and (11) could be erroneously interpreted to mean traditional Commission tariff review and approval, which is preempted under federal law at 47 U.S.C. § 332(c)(3). USC also commented that a tariff requirement would be burdensome and not in the best interests of consumers. In its written comments, the Staff supports the informational filings stating that it is not anticipated that the

Commission will review and/or approve such filings. The Staff also stated that informational filings will only provide the Commission and the consumer with a source to access service offering information for all providers designated as ETCs.

RESPONSE: The Commission concurs with the comments of the Staff and finds that the informational filings will provide the Commission and the consumer with a source to access service offering information for all providers designated as ETCs. The Commission clarifies that the filings are for informational purposes only and will not be subject to review or approval by the Commission. No changes have been made as a result of these comments.

COMMENTS: USC commented that the proposed rule should allow local usage comparability in terms of overall consumer value and any suggestion that local calling scopes or plans must be duplicated by wireless ETCs is contrary to an FCC order. The Staff, in its written comments, notes that the intention of this section is not to require wireless and wireline providers to offer identical local usage plans, but to require that they offer plans with similar characteristics. The Staff notes that the Commission would review compliance with this section of the proposed rule on a case-by-case basis.

RESPONSE: The Commission agrees with the Staff and finds that the local usage provision is consistent with the FCC's orders. No changes have been made as a result of these comments.

COMMENTS: USC commented that the requirement of unlimited local calling for Lifeline subscribers found in subsection (10)(A)(11) is not competitively neutral and not found in the federal regulations. USC further commented that an unlimited local calling requirement is a state action subject to federal preemption.

RESPONSE AND EXPLANATION OF CHANGE: The Commission finds that the requirement for unlimited local calling for Lifeline subscribers should be removed from the rule.

COMMENTS: USC commented that the subsection (10)(A)(7) requirement to provide "access to telecommunications relay services by dialing 711" would require a carrier to provide a service not supported by USF. USC further commented that the Commission has no authority to expand the federal list of supported services.

RESPONSE: The Commission finds that this is a federal requirement in 47 C.F.R 64.603. No changes have been made as a result of these comments.

COMMENTS: The Staff commented that certain proposed language could be added to require ETCs to annually meet with the Staff to review and discuss the ETC's two-year improvement plan.

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees and finds that this suggested change would improve the rule and will modify the rule accordingly.

COMMENTS: Ms. Barbara Meisenheimer with the OPC testified that information submitted to the Commission by ETCs should include sample contracts between the company and the customer.

RESPONSE: The Commission finds that the information provided in the two-year plan and in the informational filings is sufficient for Commission review of an ETC designation request and annual recertification request. No changes have been made as a result of this comment.

COMMENTS: Ms. Barbara Meisenheimer with the OPC testified that a wireless ETC should not be allowed to collect any more as a customer portion of a build out than does the incumbent because they receive exactly the same support money for serving that customer.

RESPONSE: The Commission finds that due to the network differences between the wireless and the wireline carriers, the wireless ETC's should not be tightly tied to the practices of the wireline networks. No changes have been made as a result of this comment.

4 CSR 240-3.570 Requirements for Carrier Designation as Eligible Telecommunications Carriers

(1) For purposes of this rule, the following definitions apply.

- (A) Alternative local exchange telecommunications company (ALEC) is as defined in Section 386.020(1) RSMo.
- (B) Commercial mobile radio service (CMRS) provider provides service as identified in 47 C.F.R. Parts 20 and 24.
- (C) Eligible telecommunications carrier (ETC) is a carrier designated as such by the Missouri Public Service Commission pursuant to 47 USC 214(e) in order to receive universal service support. Eligible telecommunications carrier (ETC) shall refer to alternative local exchange carriers and commercial mobile radio service providers and shall not include incumbent local exchange carriers unless otherwise specified.
- (D) Incumbent local exchange telecommunications company is as defined in Section 386.020(22) RSMo.
- (E) Reasonable request for service refers to a request for service of a type and quantity that is not in excess of service which is normally requested by like customers and is for service at a location within the carrier's designated service area.

(2) Applications for designation as an ETC.

- (A) Each request for ETC designation shall include:
 - 1. Intended use of the high-cost support, including detailed descriptions of any construction plans with start and end dates, populations affected by construction plans, existing tower site locations for CMRS cell towers, and estimated budget amounts;
 - 2. A two (2)-year plan demonstrating, with specificity, that high-cost universal service support shall only be used for the provision, maintenance and upgrading of facilities and services for which the support is intended in the Missouri service area in which ETC designation was granted.
 - A. For purposes of this section, "support is intended" is defined consistent with the Telecommunications Act which outlines the following principles:
 - (I) Quality and rates – quality services should be available at just, reasonable, and affordable rates.
 - (II) Access to advanced services – access to advanced telecommunications and information services should be provided in all regions of the State.
 - (III) Access in rural and high cost areas – Consumers in all regions of Missouri, including those in rural, insular and high cost areas

will have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.

3. The two (2)-year plan shall include a demonstration that universal service support shall be used to improve coverage, service quality or capacity on a wire center-by-wire center basis throughout the Missouri service area for which the requesting carrier seeks ETC designation including:
 - A. A detailed map of coverage area before and after improvements and in the case of CMRS providers, a map identifying existing tower site locations for CMRS cell towers;
 - B. The specific geographic areas where improvements will be made;
 - C. The projected start date and completion date for each improvement;
 - D. The estimated amount of investment for each project that is funded by high-cost support;
 - E. The estimated population that will be served as a result of the improvements;
 - F. If an applicant believes that service improvements in a particular wire center are not needed, it must explain its basis for this determination and demonstrate how funding will otherwise be used to further the provision of supported services in that area; and
 - G. A statement as to how the proposed plans would not otherwise occur absent the receipt of high-cost support and that such support will be used in addition to any expenses the ETC would normally incur.
4. A demonstration of the carrier's ability to remain functional in emergency situations, including a demonstration that the carrier 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;
5. A demonstration that the commission's grant of the applicant's request for ETC designation would be consistent with the public interest, convenience and necessity;
6. A commitment to advertise the availability of services and charges therefore using media of general distribution throughout the ETC service area;
7. A commitment to provide Lifeline and Link Up discounts consistent with 47 CFR 54.401 and 47 CFR 54.411. Each request for ETC designation shall include a commitment to publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service consistent with 47 CFR 54.405;
8. A statement that the carrier will satisfy consumer privacy protection standards as provided in 47 CFR 64 Subpart U and service quality standards as applicable;

9. A statement that the requesting carrier acknowledges it shall provide equal access pursuant to 4 CSR 240-32.100(3) and (4) if all other ETCs in that service area relinquish their designations pursuant to section 214(e) of the Telecommunications Act of 1996; and
 10. A commitment to offer a local usage plan comparable to those offered by the incumbent local exchange carrier in the areas for which the carrier seeks designation. Such commitment shall include a commitment to provide Lifeline and Link Up discounts and Missouri Universal Service Fund (MoUSF) discounts pursuant to Chapter 4 CSR 240-31, if applicable, at rates, terms and conditions comparable to the Lifeline and Link Up offerings and MoUSF offerings of the incumbent local exchange carrier providing service in the ETC service area.
- (B) Each request for ETC designation by a CMRS provider shall include a commitment to abide by the consumer code for wireless service recognized by the Cellular Telecommunications and Internet Association (CTIA) at the time of the ETC designation request. As part of the initial application, a CMRS provider shall include a copy of the consumer code for wireless service currently recognized by CTIA to which it commits to abide. Any CMRS provider designated as an ETC shall file with the Commission, any change(s) to the consumer code for wireless service included with its application or any subsequent code approved under this section of the rule, within 30 days of the change(s). The Commission shall allow interested parties 30 days to provide comment as to whether the CMRS provider should be required to commit to the proposed changes, or should continue to abide by the consumer code for wireless service currently approved for that provider.
- (C) Each request for ETC designation shall include a plan outlining the method for handling unusual construction or installation charges.
- (3) Service Requirements of ETCs
- (A) ETCs shall develop a bill design that can be easily interpreted by their customers and clearly sets forth charges in compliance with state and federal billing requirements.
 - (B) ETCs shall provide customer service contact information online and on billing statements. This requirement also applies to ETCs that use a third party billing agent.
 - (C) Service Provisioning Commitment
 1. ETC shall make available to each end-user subscribing to its supported services within its ETC designated service area the following service features:
 - A. Dual tone multi-frequency signaling or its functional equivalent;
 - B. Single-party service or its functional equivalent;
 - C. Access to emergency services;
 - D. Emergency telephone number services capable of automatic number identification, automatic location identification and call routing facilities to facilitate public safety response; e.g., Enhanced 911 Service, where the local government agency serving the end-user has implemented enhanced 911 systems;
 - E. Access to interexchange service;

- F. Access to telecommunications relay services by dialing 711;
 - G. Access to Directory Assistance service;
 - H. Access to operator services; and
 - I. Toll limitation and/or blocking for qualifying low-income consumers.
2. ETCs shall publicize the construction of all new facilities that will enhance services in unserved or underserved areas so that consumers are aware of the improved service in the area.
 3. ETCs shall extend their networks to serve new customers upon a reasonable request. ETCs shall take the following steps, as applicable, to respond to all such reasonable requests for service within its ETC service area.
 - A. If a request comes from a customer residing within the ETC service area where the ETC already provides service, the ETC shall immediately provide service using its standard customer equipment.
 - B. If a request comes from a customer residing within the ETC service area where the ETC does not already provide service, the ETC shall take reasonable steps to provide acceptable service at no cost to the customer, including: modifying or replacing customer equipment; deploying a roof-mounted antenna or other network equipment at the premises; making adjustments at the nearest cell site or to other network or customer facilities; employing, leasing or constructing an additional cell site, a cell-extender, repeater or other similar equipment; or offering resold service of other carriers that have facilities available to that premises.
 - C. Where special conditions or special requirements of the customer involve unusual construction or installation costs, the customer may be required to pay a reasonable portion of such costs in accordance with the plan outlining the method for handling unusual construction or installation charges approved by the commission at the time of designation as an ETC.
 - D. If there is no possibility of providing service to the requesting customer, the ETC shall notify the customer and include such information in its annual certification documentation to the Commission.
- (D) Within thirty (30) days of receiving ETC status, each CMRS carrier designated as an ETC shall make an informational filing with the commission consisting of a complete description of all of its service offerings. Such informational filings will be amended as service offerings are introduced or modified.
 - (E) ETCs shall maintain a record of customer complaints that have been received by the company in a manner that includes, at a minimum: the end-user name; the account number; a description of the complaint; the date the complaint was filed; the resolution; and the amount of refund or credit, if any. ETCs shall also maintain a record of complaints from consumers in the Missouri service area in which ETC designation was granted that have been submitted to or filed with the Federal Communications Commission for which the company has knowledge in a manner that includes, at a minimum: a description of the complaint; the date the complaint was filed; the date the complaint was resolved; the resolution of the complaint and the amount of refund or credit, if any.

- (F) ETCs shall, within ten (10) days of a change in the company-designated contacts, either notify the manager of the Telecommunications Department, in writing or by electronic mail, or shall update the commission's electronic filing system (EFIS). The notification or update shall include the name(s), address(es) and/or telephone number(s) of the designated individual(s). The contact name(s) provided pursuant to this section shall be the individual(s) primarily responsible for: customer service; repair and maintenance; answering complaints; authorizing and/or furnishing refunds to customers; and informational or tariff filing issues.

(4) Annual Filing Requirements for ETCs.

- (A) All ETCs, including incumbent local exchange telecommunications carriers that receive federal high cost support, shall, by August 15 of each year, submit an affidavit executed by an officer of the Company attesting that federal high-cost support is used consistent with the commission's rules and the Telecommunications Act of 1996. The affidavit will be accompanied by documentation of support received and costs incurred. The commission or its staff may request additional information regarding the annual certification. Questions regarding the appropriate documentation for ETCs should be directed to the Commission's Telecommunications Department.

- (B) ETCs seeking certification by October 1 of each year shall, no later than June 15 of each year, set up a meeting with the Telecommunications Department Staff and the Office of the Public Counsel to review and discuss the ETC's proposal for the two-year improvement plan. The meeting shall include a discussion of the proposed plan and any changes to the plan that would improve coverage, service quality or capacity in unserved or underserved areas in the Missouri service area in which ETC designation was granted.

1. A two (2)-year improvement plan shall include progress updates on any previously submitted plan. The two (2)-year improvement plan shall include, with specificity, proposed improvements or upgrades to the carrier's network on a wire center-by-wire center basis throughout its proposed designated service area and address all of the separate components addressed in the initial plan, set forth in (2)(A)2. above.
2. Reports on unfilled service requests and customer complaints for the previous year and how the two (2)-year improvement plan may address such requests and complaints.

- (C) ETCs shall submit a demonstration that the receipt of high-cost support was used only for the provision, maintenance and upgrading of facilities and services for which the support is intended in the Missouri service area in which ETC designation was granted.

A. For purposes of this section, "support is intended" is defined consistent with the Telecommunications Act which outlines the following principles:

(I) Quality and rates – quality services should be available at just, reasonable, and affordable rates.

(II) Access to advanced services – access to advanced telecommunications and information services should be provided in all regions of the State.

(III) Access in rural and high cost areas – Consumers in all regions of Missouri, including those in rural, insular and high cost areas will have access to telecommunications and information services,

including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.

- (D) ETC shall submit a demonstration that high-cost support was used to improve coverage, service quality or capacity in the Missouri service area in which ETC designation was granted and that such support was used in addition to any expenses the ETC would normally incur;
- (E) ETCs shall submit an affidavit signed by an officer of the company certifying that the ETC continues to comply with the approved consumer code for wireless service recognized by the Cellular Telecommunications and Internet Association (CTIA) and/or applicable service quality standards and consumer protection rules, certifying that the ETC continues to be able to function in emergency situations, continues to offer a local usage plan comparable to that offered by the incumbent local exchange telecommunications carrier in the relevant service areas (if applicable), and continues to acknowledge that it shall provide equal access pursuant to 4 CSR 240-32.100(3) and (4) if all other ETCs in that service area relinquish their designations pursuant to section 214(e)(3) of the Telecommunications Act of 1996;
- (F) ETCs shall submit a report of complaints from consumers in the Missouri service area in which ETC designation was granted that have been submitted to or filed with the Federal Communications Commission in the previous twelve (12) months for which the company has knowledge. Such report shall include, at a minimum: a description of the complaint; the date the complaint was filed; the date the complaint was resolved; the resolution of the complaint and the amount of refund or credit, if any. If the Commission finds the ETC's resolution of complaints is not satisfactory or if a particular type of complaint is recurring without being satisfactorily addressed, then the Commission may decline to certify the ETC during the annual certification process.
- (G) An application for ETC designation shall be deemed to be acceptance of Missouri Public Service Commission jurisdiction over any issues related to ETC designation and status and USF funding and acceptance of additional rules made applicable to that ETC.
- (H) All ETCs, including incumbent local exchange telecommunications carriers, in non-rural areas of Missouri shall, in conjunction with the annual high-cost certification process, assist the commission staff in comparing residential rates in rural areas served by non-rural incumbent local exchange carriers to urban rates nationwide.
- (I) All reports required to be submitted to the commission shall be attested to by an officer or authorized agent of the ETC or incumbent local exchange telecommunications carrier.
- (J) Except as otherwise provided in commission rules, ETCs shall keep all books and records associated with its ETC designation and/or the commission's annual certification process in accordance with good business practices, and at such place as they are normally kept in the usual course of business. The ETC shall make its books and records associated with its ETC designation and/or the commission's annual certification process available to the commission at reasonable times for examination and inspection at a location designated by the commission.
- (K) All records required by this rule shall be preserved for at least two (2) years.

- (L) ETCs, or carrier requesting ETC designation, shall promptly furnish requested information, including financial information, related to its designation as an ETC to the commission, its staff or the Office of the Public Counsel.
- (5) Additional Requirements.
 - (A) Each CMRS provider shall submit to the Commission a letter reflecting a change to the name and/or change, deletion or addition of a trade name under which the ETC will be doing business in the state of Missouri, attaching, as applicable, an amended Certificate of Incorporation, Fictitious Name registration or an amendment thereof. The CMRS provider shall modify its current informational filing, as required in Subsection 3D to reflect the new name and shall attest that no revisions are being made, except for the name change.
 - (B) ETCs shall not self-certify to the Universal Service Administrative Company for receipt of federal universal service funds.
 - (C) ETCs, including incumbent local exchange telecommunications carriers, shall not willfully make any false entry in any business record of any kind kept by it, nor shall it willfully destroy, mutilate, alter or by any method falsify any such record, nor shall it willfully neglect or fail to make full, true and correct entries in such records of all facts and transactions appertaining to its business, nor shall it falsify any statement to the commission.
 - (D) Allegations of failure to comply with this rule shall be filed with the commission in the form of a formal complaint pursuant to 4 CSR 240-2.070. Resolution of the complaint may result in revocation of the ETC designation.
 - (E) The Commission shall not certify, by October 1 of each year, any ETC, including incumbent local exchange telecommunications carriers, that fails to comply with these rules.
 - (F) ETCs shall submit to the commission staff, by August 15, 2006, a statement of compliance with 4 CSR 240-3.570. All carriers with requests for ETC designation pending as of the effective date of this rule shall submit, within 30 days of the effective date of the rule, any missing information required by 4 CSR 240-3.570 or a statement that all required information was previously submitted as part of the request for ETC designation.

List of Changes
Order of Rulemaking - 4 CSR 240-3.570

New Section 1

Proposed (1)(C) is modified by adding the following sentence: "Eligible telecommunications carrier (ETC) shall refer to alternative local exchange carriers and commercial mobile radio service providers and shall not include incumbent local exchange carriers unless otherwise specified."

Proposed (1)(E) is modified by replacing the definition of "competitive carrier" with the following definition: "Reasonable request for service refers to a request for service of a type and quantity that is not in excess of service which is normally requested by like customers and is for service at a location within the carrier's designated service area."

New Section 2

This section was rearranged.

Proposed (2) is changed by replacing "Each request for ETC designation shall include" with "Applications for designation as an ETC."

Proposed (2)(A) is now (2)(A)1, and the word "impacted" is replaced with "affected."

Proposed (2)(B) is now (2)(A)2 and (2)(A)3, and the term "(5)-year plan" is replaced with "(2)-year plan." The following sections were added and modified as follows:

2. A two (2)-year plan demonstrating, with specificity, that high-cost universal service support shall only be used for the provision, maintenance and upgrading of facilities and services for which the support is intended in the Missouri service area in which ETC designation was granted.

A. For purposes of this section, "support is intended" is defined consistent with the Telecommunications Act which outlines the following principles:

(I) Quality and rates – quality services should be available at just, reasonable, and affordable rates.

(II) Access to advanced services – access to advanced telecommunications and information services should be provided in all regions of the State.

(III) Access in rural and high cost areas – Consumers in all regions of Missouri, including those in rural, insular and high cost areas will have access to telecommunications and information

services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.

3. The two (2)-year plan shall include a demonstration that universal service support shall be used to improve coverage, service quality or capacity on a wire center-by-wire center basis throughout the Missouri service area for which the requesting carrier seeks ETC designation including:

The words "on a wire-by-wire center basis" are added to new subsection (2)(A)3. The following subsections were added to (2)(A)3:

- A. A detailed map of coverage area before and after improvements and in the case of CMRS providers, a map identifying existing tower site locations for CMRS cell towers;
- B. The specific geographic areas where improvements will be made;
- C. The projected start date and completion date for each improvement;
- D. The estimated amount of investment for each project that is funded by high-cost support;
- E. The estimated population that will be served as a result of the improvements.
- F. If an applicant believes that service improvements in a particular wire center are not needed, it must explain its basis for this determination and demonstrate how funding will otherwise be used to further the provision of supported services in that area.
- G. A statement as to how the proposed plans would not otherwise occur absent the receipt of high-cost support and that such support will be used in addition to any expenses the ETC would normally incur;

Proposed (2)(C) is now (2)(A)3.G., and the words "and that such support will be used in addition to any expenses the ETC would normally incur;" are added.

Proposed (2)(D) is deleted. (The requirement in proposed (2)(D) is contained in (2)(A)2.)

Proposed (2)(E) is now (2)(A)3, and the words "including a demonstration that the carrier 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;" are added.

New (2)(A)4 is added to the rule. It states: "A demonstration that the commission's grant of the applicant's request for ETC designation would be consistent with the public interest, convenience and necessity;"

Proposed (3) is now (2)(A)5, and the words "Each request for ETC designation shall include" are deleted.

Proposed (4) is now (2)(A)6, and the subsection is rewritten to state:

A commitment to provide Lifeline and Link Up discounts consistent with 47 CFR 54.401 and 47 CFR 54.411. Each request for ETC designation shall include a commitment to publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service consistent with 47 CFR 54.405

Proposed (5) is now (2)(A)9. The words "Each request for ETC designation shall include" are deleted. The words "and Missouri Universal Service Fund (MoUSF) discounts pursuant to Chapter 4 CSR 240-31, if applicable" and "and MoUSF offerings" are added.

Proposed (6) is now (2)(A)7. The words "Each request for ETC designation shall include" are deleted. The words "provided in section (12) below" are replaced with the word "applicable."

Proposed (7) is now (2)(A)8. The words "Each request for ETC designation shall include" are deleted. The words "pursuant to 4 CSR 240-32.100(3) and (4)" are added.

Proposed (8) is now (2)(B). The words "*CTIA Consumer Code for Wireless Service*" are replaced with the following:

"...consumer code for wireless service recognized by the Cellular Telecommunications and Internet Association (CTIA) at the time of the ETC designation request. As part of the initial application, a CMRS provider shall include a copy of the consumer code for wireless service currently recognized by CTIA to which it commits to abide. Any CMRS provider designated as an ETC shall file with the Commission, any change(s) to the consumer code for wireless service included with its application or any subsequent code approved under this section of the rule, within 30 days of the change(s). The Commission shall allow interested parties 30 days to provide comment as to whether the CMRS provider should be required to commit to the proposed changes, or should continue to abide by the consumer code for wireless service currently approved for that provider."

New (2)(C) is added that states: "Each request for ETC designation shall include a plan outlining the method for handling unusual construction or installation charges."

New Section 3

Section 3 is replaced as follows.

Proposed (9) is now (3)(A). The words "Carriers designated as" and "and shall not represent that the carrier's discretionary cost recovery fees are taxes or government fees" are deleted.

Proposed (17) is now (3)(B). The subsection is rewritten as follows:

ETCs shall provide customer service contact information online and on billing statements. This requirement also applies to ETCs that use a third party billing agent.

Proposed (10) is now (3)(C).

Proposed (10)(A) is now (3)(C)1, and the words "competitive carrier designated as an" are deleted.

Proposed (10)(A)1 is deleted.

Proposed (10)(A)2 is now (3)(C)1.A.

Proposed (10)(A)3 is now (3)(C)1.B.

Proposed (10)(A)4 is now (3)(C)1.C.

Proposed (10)(A)5 is now (3)(C)1.D., and the words "in place a Public Safety Answering Point" are replaced with the words "implemented enhanced 911 systems."

Proposed (10)(A)6 is now (3)(C)1.E.

Proposed (10)(A)7 is now (3)(C)1.F.

Proposed (10)(A)8 is now (3)(C)1.G.

Proposed (10)(A)9 is now (3)(C)1.H.

Proposed (10)(A)10 is now (3)(C)1.I.

Proposed (10)(A)11 is deleted.

Proposed (10)(C) is now (3)(C)2, and the words "All carriers designated as an ETC" are replaced with "ETCs" and the words "expand service area or" are removed.

Proposed (10)(B) and (10)(D) are now (3)(C)3, and the words "Once designated as an ETC, a carrier" from proposed (10)(B) are replaced with "ETCs." The words "All competitive carriers designated as an ETC" from proposed (10)(D) are replaced with "ETCs."

Proposed (10)(D)1 through (10)(D)4 are replaced with (3)(C)3.A. through (3)(C)3.D. as follows:

A. If a request comes from a customer residing within the ETC service area where the ETC already provides service, the ETC shall immediately provide service using its standard customer equipment.

B. If a request comes from a customer residing within the ETC service area where the ETC does not already provide service, the ETC shall take reasonable steps to provide acceptable service at no cost to the customer, including: modifying or replacing customer equipment; deploying a roof-mounted antenna or other network equipment at the premises; making adjustments at the nearest cell site or to other network or customer facilities; employing, leasing or constructing an additional cell site, a cell-extender, repeater or other similar equipment; or offering resold service of other carriers that have facilities available to that premises.

C. Where special conditions or special requirements of the customer involve unusual construction or installation costs, the customer may be required to pay a reasonable portion of such costs in accordance with the plan outlining the method for handling unusual construction or installation charges approved by the commission at the time of designation as an ETC.

D. If there is no possibility of providing service to the requesting customer, the ETC shall notify the customer and include such information in its annual certification documentation to the Commission.

Proposed (11) is deleted.

Proposed (12) is now (3)(D). The words "designated as an ETC" are added after the word "carrier."

Proposed (13) is now (3)(E). The words "Each competitive carrier designated as an ETC" is replaced with "ETCs." Proposed (13)(A) and (13)(B) are deleted. Section (3)(E) now reads:

- (E) ETCs shall maintain a record of customer complaints that have been received by the company in a manner that includes, at a minimum: the end-user name; the account number; a description of the complaint; the date the complaint was filed; and, the resolution; and the amount of refund or credit, if any. ETCs shall also maintain a record of complaints from consumers in the Missouri service area in which ETC designation was granted that have been submitted to or filed with the Federal Communications Commission for which the company has knowledge in a manner that includes, at a minimum: a description of the complaint; the date the complaint was filed; the date the complaint was resolved; the resolution of the complaint and the amount of refund or credit, if any.

Proposed (14), (15), and (16) are deleted.

Proposed (17) is now (3)(B) (see above).

Proposed (18), (19), (20), and (21) are deleted.

Proposed (22) is now (3)(F). The subsection has been reworded to state:

ETCs shall, within ten (10) days of a change in the company-designated contacts, either notify the manager of the Telecommunications Department, in writing or by electronic mail, or shall update the commission's electronic filing system (EFIS). The notification or update shall include the name(s), address(es) and/or telephone number(s) of the designated individual(s). The contact name(s) provided pursuant to this section shall be the individual(s) primarily responsible for: customer service; repair and maintenance; answering complaints; authorizing and/or furnishing refunds to customers; and informational or tariff filing issues.

New Section 4

Proposed (23) is now (4)(A). The subsection has been reworded to state:

All ETCs, including incumbent local exchange telecommunications carriers that receive federal high cost support, shall, by August 15 of each year, submit an affidavit executed by an officer of the Company attesting that federal high-cost support is used consistent with the commission's rules and the Telecommunications Act of 1996. The affidavit will be accompanied by documentation of support received and costs incurred. The commission or its staff may request additional information regarding the annual certification. Questions regarding the appropriate documentation for ETCs should be directed to the Commission's Telecommunications Department.

Proposed (24)(A), (24)(C) and (24)(D) are now (4)(B). The subsection has been reworded to state:

ETCs seeking certification by October 1 of each year shall, no later than June 15 of each year, set up a meeting with the Telecommunications Department Staff and the Office of the Public Counsel to review and discuss the ETC's proposal for the two-year improvement plan. The meeting shall include a discussion of the proposed plan and any changes to the plan that would improve coverage, service quality or capacity in unserved or underserved areas in the Missouri service area in which ETC designation was granted.

1. A two (2)-year improvement plan shall include progress updates on any previously submitted plan. The two (2)-year improvement plan shall include, with specificity, proposed improvements or upgrades to the carrier's network on a wire center-by-wire center basis throughout its proposed designated service area and address all of the separate components addressed in the initial plan, set forth in (2)(A)2. above.

2. Reports on unfilled service requests and customer complaints for the previous year and how the two (2)-year improvement plan may address such requests and complaints.

Proposed (24)(B) is deleted.

Proposed (24)(E) is now (4)(C). The words "ETCs shall submit" were added. The word "only" was deleted. A new (4)(C)A was added that states:

- A. For purposes of this section, "support is intended" is defined consistent with the Telecommunications Act which outlines the following principles:
 - (I) Quality and rates – quality services should be available at just, reasonable, and affordable rates.
 - (II) Access to advanced services – access to advanced telecommunications and information services should be provided in all regions of the State.
 - (III) Access in rural and high cost areas – Consumers in all regions of Missouri, including those in rural, insular and high cost areas will have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.

Proposed (24)(F) is now (4)(D). The subsection was reworded to state:

ETCs shall submit an affidavit signed by an officer of the company certifying that the ETC continues to comply with the approved consumer code for wireless service recognized by the Cellular Telecommunications and Internet Association (CTIA) and/or applicable service quality standards and consumer protection rules, certifying that the ETC continues to be able to function in emergency situations, continues to offer a local usage plan comparable to that offered by the incumbent local exchange telecommunications carrier in the relevant service areas (if applicable), and continues to acknowledge that it shall provide equal access pursuant to 4 CSR 240-32.100(3) and (4) if all other ETCs in that service area relinquish their designations pursuant to section 214(e)(3) of the Telecommunications Act of 1996;

A new (4)(F) is added that states:

ETCs shall submit a report of complaints from consumers in the Missouri service area in which ETC designation was granted that have been submitted to or filed with the Federal Communications Commission in the previous twelve (12) months for which the company has knowledge. Such report shall include, at a

minimum: a description of the complaint; the date the complaint was filed; the date the complaint was resolved; the resolution of the complaint and the amount of refund or credit, if any. If the Commission finds the ETC's resolution of complaints is not satisfactory or if a particular complaint is recurring without being satisfactorily addressed, then the Commission may decline to certify the ETC during the annual certification process.

A new (4)(G) is added that states:

An application for ETC designation shall be deemed to be acceptance of Missouri Public Service Commission jurisdiction over any issues related to ETC designation and status and USF funding and acceptance of additional rules made applicable to that ETC.

A new (4)(H) is added that states:

All ETCs, including incumbent local exchange telecommunications carriers, in non-rural areas of Missouri shall, in conjunction with the annual high-cost certification process, assist the commission staff in comparing residential rates in rural areas served by non-rural incumbent local exchange carriers to urban rates nationwide.

Proposed (25) is now (4)(I), and "carrier designated as an ETC" is replaced with "ETC or incumbent local exchange telecommunications carrier."

Proposed (26) is now (4)(J), and several changes were made so that the new version now states:

Except as otherwise provided in commission rules, ETCs shall keep all books and records associated with its ETC designation and/or the commission's annual certification process in accordance with good business practices, and at such place as they are normally kept in the usual course of business. The ETC shall make its books and records associated with its ETC designation and/or the commission's annual certification process available to the commission at reasonable times for examination and inspection at a location designated by the commission.

Proposed (27) is now (4)(K).

Proposed (28) is now (4)(L), and was modified to state:

ETCs, or carrier requesting ETC designation, shall promptly furnish requested information, including financial information, related to its designation as an ETC to the commission, its staff or the Office of the Public Counsel.

New Section 5

Proposed (29)(A) and (B) is now (5)(A), and several changes were made including a rearranging of the subsection so that it now states:

Each CMRS provider shall submit to the Commission a letter reflecting a change to the name and/or change, deletion or addition of a trade name under which the ETC will be doing business in the state of Missouri, attaching, as applicable, an amended Certificate of Incorporation, Fictitious Name registration or an amendment thereof. The CMRS provider shall modify its current informational filing, as required in Subsection 3D to reflect the new name and shall attest that no revisions are being made, except for the name change.

Proposed (30) is now (5)(B), and "Carriers designated as an ETC" was replaced with "ETCs."

Proposed (31) is now (5)(C), and several deletions and additions were made so that the new subsection now states:

ETCs, including incumbent local exchange telecommunications carriers, shall not willfully make any false entry in any business record of any kind kept by it, nor shall it willfully destroy, mutilate, alter or by any method falsify any such record, nor shall it willfully neglect or fail to make full, true and correct entries in such records of all facts and transactions appertaining to its business, nor shall it falsify any statement to the commission.

Proposed (32) is now (5)(D).

Proposed (33) is now (5)(E). The words "including incumbent local exchange carriers" were added.

New (5)(F) was added, which states:

ETCs shall submit to the commission staff, by August 15, 2006, a statement of compliance with 4 CSR 240-3.570. All carriers with requests for ETC designation pending as of the effective date of this rule shall submit, within 30 days of the effective date of the rule, any missing information required by 4 CSR 240-3.570 or a statement that all required information was previously submitted as part of the request for ETC designation.

MEMORANDUM

TO: Cully Dale, Secretary

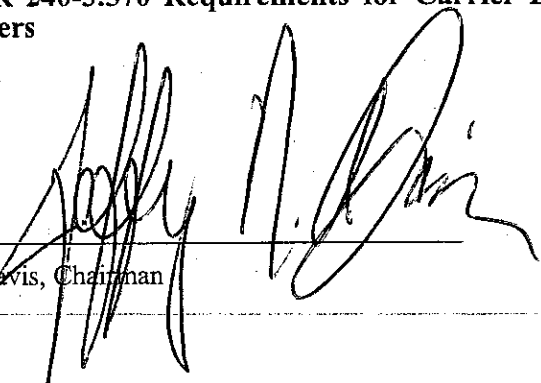
DATE: March 7, 2006

RE: Authorization to File the Final Order of Rulemaking with the Office of Secretary of State

CASE NO: TX-2006-0169

The undersigned Commissioners hereby authorize the Secretary of the Missouri Public Service Commission to file the following Final Order of Rulemaking with the Office of Secretary of State, to wit:

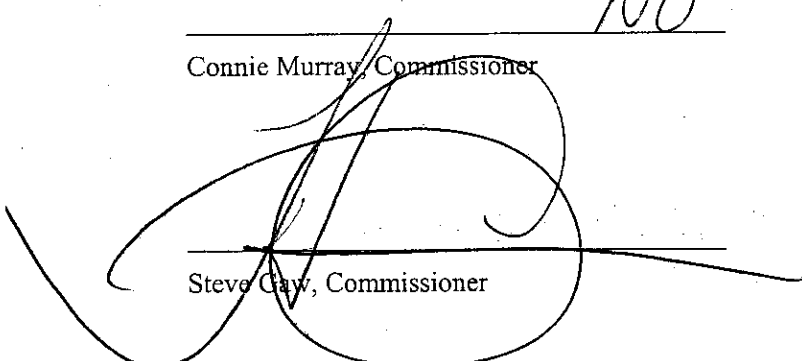
4 CSR 240-3.570 Requirements for Carrier Designation as Eligible Telecommunications Carriers



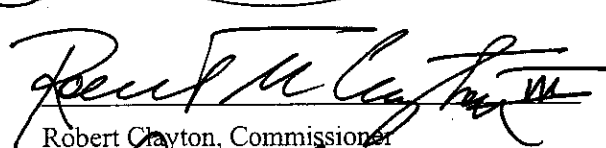
Jeff Davis, Chairman

NO

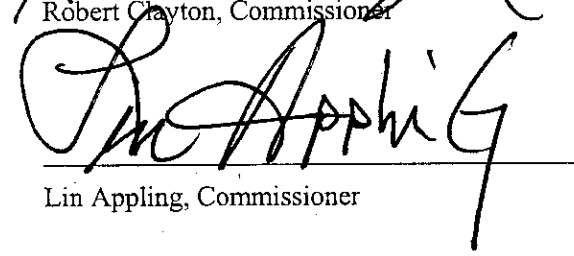
Connie Murray, Commissioner



Steve Gay, Commissioner



Robert Clayton, Commissioner



Lin Appling, Commissioner



Commissioners

JEFF DAVIS
Chairman

CONNIE MURRAY

STEVE GAW

ROBERT M. CLAYTON III

LINWARD "LIN" APPLING

Missouri Public Service Commission

POST OFFICE BOX 360
JEFFERSON CITY MISSOURI 65102
573-751-3234
573-751-1847 (Fax Number)
<http://www.psc.mo.gov>

WESS A. HENDERSON
Executive Director

DANA K. JOYCE
Director, Administration

ROBERT SCHALLENBERG
Director, Utility Services

WARREN WOOD
Director, Utility Operations

COLLEEN M. DALE
Secretary/Chief Regulatory Law Judge

KEVIN A. THOMPSON
General Counsel

April 6, 2006

Honorable Robin Carnahan
Secretary of State
Administrative Rules Division
600 West Main Street
Jefferson City, Missouri 65101

Dear Secretary Carnahan:

Re: 4 CSR 240-3.570 Order of Rulemaking

CERTIFICATION OF ADMINISTRATIVE RULE

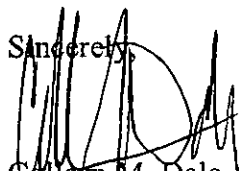
I do hereby certify that the attached is an accurate and complete copy of the proposed Order of Rulemaking lawfully submitted by the Missouri Public Service Commission for filing this 6th day of April 2006.

Statutory authority: 386.250 RSMo (Supp. 2005)

If there are any questions regarding the content of this Order of Rulemaking, please contact:

Natelle Dietrich, Governor Office Building, 200 Madison Street, 5th Floor, Jefferson City, Missouri 65102.

Sincerely,


Colleen M. Dale
Secretary



Robin Carnahan
Secretary of State

Administrative Rules Division
Rulemaking Transmittal Receipt

Rule ID: 4330
Date Printed: 4/6/2006
Rule Number: 4 CSR 240-3.570
Rulemaking Type: Final Order Rule
Date Submitted to Administrative Rules Division: 4/6/2006
Date Submitted to Joint Committee on Administrative Rules: 3/7/2006

Name of Person to Contact with questions concerning this rule:

Content: Natelle Dietrich	Phone: 751-7427	Email: marc.poston@psc.mo.gov	Fax: 751-9285
RuleDataEntry: Natelle Dietrich	Phone: 751-7427	Email: natelle.dietrich@psc.mo.gov	Fax: 751-9285

Included with Rulemaking:

Cover Letter

4/06/2006