

Robin Carnahan
Secretary of State
Administrative Rules Division
RULE TRANSMITTAL

Administrative Rules Stamp

RECEIVED

OCT 31 2005

SECRETARY OF STATE
ADMINISTRATIVE RULES

COPY

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

- A. Rule Number 4 CSR 240-3.570
Diskette File Name Proposed Rule 4 CSR 240-3.570
Name of person to call with questions about this rule:
Content Marc Poston Phone 573-751-8701 FAX 573-751-9285
E-mail address marc.poston@psc.mo.gov
Data entry Sarah Fontaine Phone 573-522-4619 FAX 573-751-9285
E-mail address sarah.fontaine@psc.mo.gov
Interagency mailing address GOB, 200 Madison Street, 8th Floor, Jefferson City
Statutory Authority 386.250 Current RSMo date Supp. 2004
Date filed with the Joint Committee on Administrative Rules : November 1, 2005

B. CHECKLIST guide for rule packets:

- | | |
|---|--|
| <input checked="" type="checkbox"/> This transmittal completed | <input type="checkbox"/> Forms, number of pages _____ |
| <input checked="" type="checkbox"/> Cover letter | <input checked="" type="checkbox"/> Authority section with history of the rule |
| <input checked="" type="checkbox"/> Affidavit | <input checked="" type="checkbox"/> Public cost statement |
| <input checked="" type="checkbox"/> Small business impact statement | <input checked="" type="checkbox"/> Private cost statement |
| <input checked="" type="checkbox"/> Fiscal notes | <input checked="" type="checkbox"/> 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 _____

Small Business Regulatory
Fairness Board (DED) Stamp

JCAR Stamp

JOINT COMMITTEE ON

OCT 31 2005

ADMINISTRATIVE RULES

RULE TRANSMITTAL (PAGE 2)

E. ORDER OF RULEMAKING: Rule Number_____

1a. Effective Date for the Order

☐ Statutory 30 days

Specific date_____

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

☐ YES

☐ NO

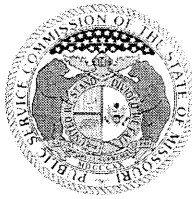
1c. If the answer is YES, please complete section F.

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.

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*.

Add additional sheet(s), if more space is needed.



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>

October 31, 2005

WESS A. HENDERSON
Executive Director

ROBERT SCHALLENBERG
Director, Utility Services

WARREN WOOD
Director, Utility Operations

COLLEEN M. DALE
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

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

Dear Secretary Carnahan,

RE: Proposed Rule 4 CSR 240-3.570 – Requirements for Carrier Requests for Designation as Eligible Telecommunications Carriers

CERTIFICATION OF ADMINISTRATIVE RULE

I do hereby certify that the attached is an accurate and complete copy of the proposed rule lawfully submitted by the Missouri Public Service Commission on this 31st day of October 2005.

The Missouri Public Service Commission has determined and hereby certifies that this proposed rule will not have an economic impact on small business. The Missouri Public Service Commission also certifies that it has conducted an analysis of whether or not there has been a taking of real property pursuant to section 536.017, RSMo 2000 and that this proposed rule does not constitute a taking of real property under relevant state and federal law.

Statutory Authority: section 386.250, RSMo 2000

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

Marc Poston
200 Madison
Jefferson City, MO 65102
Phone (573) 751-8701
Email: marc.poston@psc.mo.gov

Sincerely yours,


A handwritten signature in black ink, appearing to read "Dan Joyce", is written over a horizontal line.

Dan Joyce
General Counsel
Missouri Public Service Commission

AFFIDAVIT
(PUBLIC NO COST)

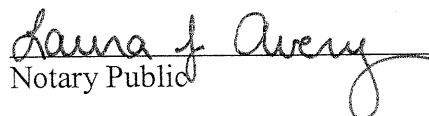
STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

I, Gregory A. Steinhoff, Director of the Department of Economic Development, first being duly sworn on my oath, state that it is my opinion that the cost of Proposed Rule 4 CSR 240-3.570 is less than five hundred dollars in the aggregate to this agency, and any other agency of state government or any political subdivision thereof.



Gregory A. Steinhoff
Director
Department of Economic Development

Subscribed and sworn to before me this 20 day of October, 2005. I am commissioned as a notary public within the County of Cole, State of Missouri, and my commission expires on Aug 12, 2008.



Notary Public



COPY RECEIVED
OCT 31 2005

**Title 4 – DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240 – Public Service Commission
Chapter 3 – Filing and Reporting Requirements**

SECRETARY OF STATE
ADMINISTRATIVE RULES

PROPOSED RULE

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

PURPOSE: The purpose of this rule is to establish criteria for submission to the Commission when a company seeks designation as an eligible telecommunications carrier and to establish criteria for carriers designated 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 CFR 54.201 in order to receive universal service support.

(D) Incumbent local exchange telecommunications company is as defined in Section 386.020(22) RSMo.

(E) Competitive Carrier shall refer to both commercial mobile radio service providers and alternative local exchange telecommunications carriers.

(2) Each request for ETC designation shall include:

(A) Intended use of the high-cost support, including detailed descriptions of any construction plans with start and end dates, populations impacted by construction plans, existing tower site locations for CMRS cell towers, and estimated budget amounts;

(B) A five-year plan demonstrating how high-cost universal service support will be used to improve coverage, service quality or capacity throughout the service area for which the requesting carrier seeks ETC designation including a detailed map of coverage area before and after improvements;

(C) A statement as to how the proposed plans would not otherwise occur absent the receipt of high-cost support;

(D) A demonstration that the receipt of high-cost support will only be used to improve coverage, service quality or capacity in the Missouri service area in which ETC designation is requested and that such support is in addition to any expenses the competitive carrier would normally incur; and,

(E) A demonstration of the carrier's ability to remain functional in emergency situations.

JOINT COMMITTEE ON
OCT 31 2005
ADMINISTRATIVE RULES

(3) Each request for ETC designation shall include a commitment to advertise the availability of services and charges therefore using media of general distribution throughout the ETC service area.

(4) Each request for ETC designation shall include a commitment to provide Lifeline and Linkup discounts consistent with 47 CFR 54.401, 47 CFR 54.411 and Chapter 31 of the Commission's rules and 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.

(5) Each request for ETC designation shall include 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 Linkup discounts at rates, terms and conditions comparable to the Lifeline and Linkup offerings of the incumbent local exchange carrier providing service in the ETC service area.

(6) Each request for ETC designation shall include a statement that the carrier will satisfy consumer privacy protection standards as provided in 47 CFR 64 Subpart U and service quality standards as provided in Subsection 12 below.

(7) Each request for ETC designation shall include a statement that the requesting carrier acknowledges it shall provide equal access if all other ETCs in that service area relinquish their designations pursuant to section 214(e) of the Telecommunications Act of 1996.

(8) Each request for ETC designation by a CMRS provider shall include a commitment to abide by the CTIA Consumer Code for Wireless Service.

(9) Carriers designated as 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, and shall not represent that the carrier's discretionary cost recovery fees are taxes or government fees.

(10) Service Provisioning Commitment

(A) Each competitive carrier designated as an ETC shall make available to each end-user subscribing to its supported services within its ETC designated service area the following service features:

1. A local usage plan comparable to those offered by the incumbent local exchange carrier in the area(s) for which the carrier seeks designation;
2. Dual tone multi-frequency signaling or its functional equivalent;
3. Single-party service or its functional equivalent;
4. Access to emergency services;
5. 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 in place a Public Safety Answering Point;
6. Access to interexchange service;
7. Access to telecommunications relay services by dialing 711;

8. Access to Directory Assistance service;
9. Access to operator services; and
10. Toll limitation and/or blocking for qualifying low-income consumers.; and
11. Unlimited local calling for Lifeline subscribers within its service area.

(B) Once designated as an ETC, a carrier shall extend its network to serve new customers upon a reasonable request.

(C) All carriers designated as an ETC shall publicize the construction of all new facilities that will expand the service area or enhance services in unserved or underserved areas so that consumers are aware of the improved service in the area.

(D) All competitive carriers designated as an ETC shall take the following steps, as applicable, to respond to all reasonable requests for service within its ETC service area:

1. If a request comes from a customer within its existing service area, the competitive ETC shall immediately provide service using its standard customer equipment.

2. If a request comes from a customer residing in an area where the competitive ETC does not currently provide service, the competitive ETC shall take steps to provision service as follows:

- A. Modify or replace the customer's equipment to provide acceptable service;
- B. Deploy a roof-mounted antenna or other network equipment at the premises to provide requested service;
- C. Make adjustments at the nearest cell site to provide service;
- D. Make any other adjustments to network or customer facilities to provide service;
- E. Offer resold service of carriers that have facilities available to that premise; and/or,
- F. Employ or construct an additional cell site, a cell-extender, or repeater to provide service.

3. Evaluate the costs and benefits of using high-cost universal service support to serve the number of customers requesting service. Where special conditions or special requirements of the customer involve unusual construction or installation costs, the customer may be required to pay a reasonable proportion of such costs as follows:

- A. One (1) mile of facilities to provide the minimum class of service will be provided at no charge.

- B. Additional charges will be equal to the difference between the estimated cost of the special type of construction and the estimated cost of standard construction. Charges will include materials, contract services, and loaded labor rates.

- C. The customer shall bear unusual maintenance costs for the special construction.

- D. To assist in defraying construction costs beyond those of a prudent investment by the company, the customer shall be allowed to pay all or a portion of the construction and installation charges through an arrangement agreeable to the company, the customer, and the commission.

4. If there is no possibility of providing service to the requesting customer, the competitive ETC shall notify the customer and include such information in its quarterly report to the Commission.

(11) Each alternative local exchange carrier designated as an ETC shall abide by Chapter 32 of the Commission's rules. Except as otherwise provided in this rule, each CMRS carrier designated as an ETC shall comply with 4 CSR 240-32.040, 4 CSR 240-32.050(1-3) and (6), 4 CSR 240-32.060 (1), (5-10), (12(H)), (15), 32.070, 32.080 (1-4), (5(A-D)), (5(, H)), 32.100 (1) and (2), and 32.200.

(12) Within thirty (30) days of receiving ETC status, the CMRS carrier 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.

(13) Each competitive carrier designated as an ETC 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 amount of refund, if any.

(A) If the account number is utilized, a cross-reference with the end-user's name must also be readily available.

(B) Each complaint shall count as a separate report regardless of whether subsequent reports relate to the same physical defect, difficulty, or dissatisfaction with the provision of the CMRS services.

(14) If a competitive ETC and a customer fail to resolve a matter in dispute, the competitive ETC shall advise the customer of his/her right to file an informal or formal complaint with the commission under 4 CSR 240-2.070.

(15) A competitive ETC shall acknowledge or respond by fax transmission, e-mail or Electronic Filing and Information System (EFIS) to all commission staff inquiries related to informal complaints as follows:

(A) The company shall acknowledge receipt of inquiries related to denial or discontinuance of service issues within 24 hours;

(B) The company shall acknowledge receipt of inquiries related to all other informal complaints within three (3) business days; such acknowledgment shall include current account status and an estimated timeframe for final response;

(C) If the company and Public Service Commission staff have not informally agreed to an extension or a resolution to the informal complaint, the company shall provide a status report on the informal complaint within fifteen (15) days of receiving such inquiry;

(D) The company shall provide, no later than thirty (30) days after receiving such inquiry, the company's plan and time frame to resolve the informal complaint.

(E) If a formal complaint regarding the same inquiry is filed the company need not respond further to the informal complaint.

(16) If a competitive ETC and a customer fail to resolve a matter in dispute through the informal complaint process, the Public Service Commission Staff shall advise the customer of his/her right to file a formal complaint with the commission under 4 CSR 240-2.070. Resolution of the complaint may result in revocation of ETC designation.

(17) Provide customer service contact information online and on billing statements if the competitive ETC uses third party billing agents.

(18) Each CMRS provider designated as an ETC shall submit to the Commission's Telecommunications Department a quarterly report of its customer complaints as indicated in Section 14 above and its inability to provide service as indicated in Paragraph 11(D) above.

(19) Each ALEC designated as an ETC shall continue to submit quarterly quality of service reports to the Commission's Telecommunications Department consistent with 4 CSR 240-3.550(5) of the commission's rules.

(20) All CMRS ETC providers shall submit an annual report to the commission on or before April 15 of each year, except as otherwise provided for in this rule.

(A) CMRS ETC providers shall submit their annual reports either on a form provided by the commission or on a computer-generated replica that is acceptable to the commission. Reports being submitted on paper are to be prepared in loose-leaf format and sent to the attention of the secretary of the commission. Computer-generated reports can be submitted through the commission's electronic filing and information system (EFIS). Attempts to substitute forms such as stockholder reports without concurrently submitting official commission forms with appropriate cross-references will be considered noncompliant. All requested information shall be included in the annual report, where applicable, even if it has been provided in a previous annual report.

(B) A CMRS ETC provider that receives a notice from the commission stating that deficiencies exist in the information provided in the annual report shall respond to that notice within twenty (20) days after the date of the notice, and shall provide the information requested in the notice in its response.

(C) If a CMRS ETC provider subject to this rule considers the information requested on the annual report form to be nonpublic information, it must submit both a fully completed version to be kept under seal and a redacted public version that clearly informs the reader that the redacted information has been submitted as nonpublic information to be kept under seal. Submittals made under this section that do not include both versions will be considered deficient. The staff on behalf of the commission will issue a deficiency letter to the company and if both versions of the annual report are not received within twenty (20) days of the notice, the submittal will be considered noncompliant.

(D) In addition to the foregoing, submittals made under this section must meet the following requirements:

1. A cover letter stating that the CMRS ETC provider is designating some or all of the information in its annual report as confidential information, and including the name, phone number and e-mail address (if available) of the person responsible for addressing questions regarding the confidential portions of the annual report, must be submitted with the reports;

2. The cover of each version of the report must clearly identify whether it is the public or nonpublic version;

3. A detailed affidavit that identifies the specific types of information to be kept under seal, provides a reason why the specific information should be kept under seal and states that none of the information to be kept under seal is available to the public in any format must be prominently attached to both versions of the report; and

4. Each page of each version of the report that contains nonpublic information shall be clearly identified as containing such information.

(E) If an entity asserts that any of the information contained in the nonpublic version of the annual report should be made available to the public, then that entity must file a pleading with the commission requesting an order to make the information available to the public, and shall serve a copy of the pleading on the CMRS ETC provider affected by the request. The pleading must explain how the public interest is better served by disclosure of the information than the reason provided by the CMRS ETC provider justifying why the information should be kept under seal. The CMRS ETC provider affected by the request may file a response to a pleading filed under these provisions within fifteen (15) days after the filing of such a pleading. Within five (5) business days after the due date for the filing of the CMRS ETC provider's response to a request filed under these provisions, the general counsel by filing of a pleading will make a recommendation to the commission advising whether the request should be granted.

(F) A CMRS ETC provider that is unable to meet the submission date established in section (1) of this rule may obtain an extension of up to thirty (30) days for submitting its annual report by:

1. Submitting a written request, which states the reason for the extension, to the attention of the secretary of the commission prior to April 15; and

2. Certifying that a copy of the written request was sent to all parties of record in pending cases before the commission where the CMRS ETC provider's activities are the primary focus of the proceedings.

3. A CMRS ETC provider that is unable to meet the submission date established in section (1) of this rule may request an extension of greater than thirty (30) days for submitting its annual report by:

4. Filing a pleading, in compliance with the requirements of Chapter 2 of 4 CSR 240, which states the reason for and the length of the extension being requested, with the commission prior to April 15; and

5. Certifying that a copy of the pleading was sent to all parties of record in pending cases before the commission where the CMRS ETC provider's activities are the primary focus of the proceedings.

6. Responses to deficiency notices under the provisions of section (3) of this rule, requests for confidential treatment under the provisions of section (4) of this rule, pleadings requesting public disclosure of information contained under seal under the provisions of section (5) of this rule, and requests for extensions of time under the provisions of sections (6) or (7) of this rule may be submitted through the commission's electronic filing and information system (EFIS).

7. A CMRS ETC provider that does not timely file its annual report, or its response to a notice that its annual report is deficient, is subject to a penalty of one hundred (\$100) dollars for each day that it is late in filing its annual report or its response to a notice of deficiency.

(21) Each ALEC designated as an ETC shall continue to submit annual reports consistent with 4 CSR 240-3.540 of the commission's rules.

(22) Each competitive carrier designated as an ETC shall notify the Manager of the Telecommunications Department, in writing or by electronic mail, within thirty (30) days of a change in the company-designated contacts. The 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 subsection shall be the individual(s) primarily responsible for: customer service; repair and maintenance; answering complaints; authorizing and/or furnishing refunds to customers; and information filing issues.

(23) All carriers designated as ETCs shall comply with the Commission's annual certification process by August 15 of each year as outlined in the Order Establishing Certification Procedure in Case No. TO-2002-347 and as subsequently amended. Questions regarding the appropriate certification process for competitive carriers designated as ETCs should be directed to the Commission's Telecommunications Department.

(24) In addition to the information submitted in Section (23) above, each competitive carrier designated as an ETC must submit by August 15 of each year:

- (A) Progress updates on its five-year improvement plan;
- (B) Detailed information on outages in its network for the past year;
- (C) Detailed information on how many requests for service from potential customers were unfulfilled for the past year;

- (D) The number of complaints for the previous year;

- (E) A demonstration that the receipt of high-cost support was only 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 competitive carrier would normally incur; and,

- (F) An affidavit signed by an officer of the company certifying that the competitive ETC continues to comply with the applicable service quality standards as identified in Section 12 above and consumer protection rules as identified in Section 6 above, continues to be able to function in emergency situations, continues to offer a local usage plan comparable to that offered by the incumbent LEC in the relevant service areas, and continues to provide equal access to interexchange carriers.

(25) All reports required to be submitted to the commission shall be attested to by an officer or authorized agent of the carrier designated as an ETC.

(26) Each competitive carrier designated as an ETC governed by this rule shall keep all of its books and records in accordance with good business practices, and at such place as they are normally kept in the usual course of business. The competitive carrier designated as an ETC shall make its books and records available to the commission at reasonable times for examination and inspection at a location designated by the commission.

(27) All records required by this rule shall be preserved for at least two (2) years.

(28) Each competitive carrier designated as an ETC shall promptly furnish such other information as the commission Staff may reasonably request.

(29) Each CMRS carrier designated as an ETC shall file with the Commission an application to reflect a change to the name and/or change, deletion or addition of a trade name under which the CMRS ETC will be doing business in the State of Missouri.

(A) The request for name change or request for change, addition, or deletion of a trade name shall be accompanied by the following, as applicable:

1. An amended Certificate of Incorporation effecting a change of name;
2. A Trade Name Report filed with the Secretary of State;
3. A Withdrawal of Trade Name Report filed with the Secretary of State; and/or
4. A Transfer of Trade Name Report filed with the Secretary of State.

(B) A modified informational filing and attestation that the modified informational filing is identical and no revisions are being made, except for the name change or change, addition or deletion of a trade name, to the existing informational filings of the CMRS ETC.

(30) Carriers designated as an ETC shall not self-certify to the Universal Service Administrative Company for receipt of federal universal service funds.

(31) Carriers designated as an ETC shall not willfully make any false entry in the accounts, books of accounts, records or memoranda kept by any corporation, person or public utility, or shall not willfully destroy, mutilate, alter or by any other means or device falsify the record of any such account, book of accounts, record or memoranda, or shall not willfully neglect or fail to make full, true and correct entries of such account, book of accounts, record or memoranda of all facts and transactions appertaining to the business of such corporations, persons or public utilities, or shall not falsely make any statement required to be made to the commission.

(32) Allegations of a 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 competitive carrier's ETC designation.

(33) The Commission shall not certify by October 1 of each year, any ETC that fails to comply with these rules.

AUTHORITY: sections 386.040, 386.250, 392.451, and 392.470 RSMo 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will cost private entities an estimated \$5,001,000 in the aggregate.

NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Cully Dale, Secretary of the Commission, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publications of this notice in the Missouri Register and should include a reference to commission Case No. TX-2006-0169. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing regarding this proposed rule is scheduled for January 6, 2005, at 10:00 a.m. in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may

appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

FISCAL NOTE PRIVATE ENTITY COST

I. RULE NUMBER

Title: Missouri Department of Economic Development
 Division: Missouri Public Service Commission
 Chapter: Chapter 3 - Filing and Reporting Requirements
 Type of Rulemaking: New
 Rule Number and Name: 4 CSR 240-3.570 Requirements for Carrier Designation as Eligible Telecommunications Carriers

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification* by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
37	Class A Local Telephone Companies	\$0
3	Class B Local Telephone Companies	\$0
8	Class C Local Telephone Companies	\$396,000 See III. 4 and III. 5
0	Class Interexchange Companies	\$0
3	CMRS Carriers – A	\$4,500,000 See III 6
3	CMRS Carriers – B	\$105,000 See III.7
	All entities	\$5,001,000 See III. 8

*Class A Telephone Companies are incumbent local telephone companies with more than \$100,000,000 annual revenues system wide; Class B Telephone Companies are incumbent local telephone companies with \$100,000,000 annual revenues or less system wide; Class C Local Telephone Companies are all other companies certificated to provide basic local exchange telecommunications services, Class Interexchange Companies are long distance providers. CMRS Carriers – A are nationwide commercial mobile radio service providers. CMRS Carriers – B are commercial mobile radio service providers that mainly have a presence within Missouri.

III. WORKSHEET

1. The proposed rule applies to all incumbent local exchange carriers (ILECs), competitive local exchange carriers (CLECs) and all commercial mobile radio service providers (CMRS) that request and/or receive designation as an eligible telecommunications carrier (ETC) for purposes of receiving federal universal service support.
2. The estimated number of entities affected by the proposed rule reflects ILECs and CLECs currently designated as ETCs and estimates the number of CLECs and CMRS that will request and/or receive ETC status in the next year.
3. Missouri carriers currently receive approximately \$90,000,000 in federal universal service high cost support. Based on information provided by the industry, it is estimated that Missouri carriers would receive at least another \$10,000,000 upon receipt of ETC designation under the terms of this proposed rulemaking.
4. All estimates are based on input from the industry.
5. The rule requires competitive carriers (CLECs and CMRS) to provide a 5-year build-out plan with annual updates. For those CLECs that have already received ETC designation, this is a new requirement. To initially create the plan these carriers estimate a one-time cost of \$164,000 (\$41,000 per carrier times 4 carriers), with annual updates estimated at approximately \$20,000 (\$5,000 per carrier times 4 carriers). Additional costs in this category are attributed to new CLEC requests for ETC designation.
6. The rule requires competitive carriers to take steps to respond to customer requests for service in areas not currently served by that competitive carrier. It was estimated that CLECs will need to respond to 3 requests per year per CLEC with ETC designation at an average cost of \$8,000 per request.
7. Nationwide CMRS providers estimate compliance with certain provisions of the rule will cost seven figures initially and six figures annually.
8. CMRS providers that operate mainly within Missouri estimate a cost of approximately \$105,000 (\$35,000 per carrier times 3 carriers) per year. According to industry feedback, this amount is reasonable.

IV. ASSUMPTIONS

1. Fiscal year 2005 dollars were used to estimate costs. No adjustment for inflation is applied.
2. Affected entities are assumed to be in compliance with all other Missouri Public Service Commission rules and regulations, as applicable.