

# BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of a Proposed Recession and       )  
Consolidation of Commission Rules                )  
Relating To Telecommunications                    )        **Case No. TX-2015-0097**

## **MISSOURI COMMISSION STAFF COMMENTS**

### **Overview**

This rulemaking proposes to update rules applicable to telecommunications and VoIP service providers. This rulemaking specifically proposes to rescind rules in five existing Missouri Commission chapters. Some of these rules will be streamlined and maintained in a proposed Chapter 28. Schedule No. 1 identifies all rules proposed for rescinding and whether the subject matter is still addressed in the proposed Chapter 28. The proposed Chapter 28 rules pertain to requirements regarding certification or registration applications, reporting, assessments, service, tariffs, interconnection agreements and 211 service. Schedule No. 2 identifies new subjects addressed in the proposed Chapter 28 rules not currently addressed in any existing rules.

Staff's comments are structured in two main sections. In the first section Staff's comments will discuss Staff's support for the proposed rescinding of existing rules. Staff will provide the rationale for rescinding the rule and, if necessary, whether the subject matter is moved to the proposed Chapter 28 rules. In the second section the proposed Chapter 28 rules will be individually discussed. Staff's comments will explain Staff's support for the proposed rule. As already mentioned, any Chapter 28 proposed rules dealing with requirements in existing rules were scrutinized and revised with the goals of rule simplification along with streamlining and clarifying any existing procedures or requirements. The proposed rules also attempt to be consistent with current legislation. Staff's section-specific comments propose revisions and also point out issues with the proposed Chapter 28 rules.

The Commission should be aware the proposed rulemaking has been shaped through feedback from interested parties. For example the proposed Chapter 28 rules have been revised three times since the rules were initially proposed by Staff on April 17, 2014 in Case No. TW-2014-0295. Written feedback in that case resulted in a June 24, 2014 draft followed by a July 17, 2014 workshop and a subsequent August 8, 2014 draft. Several parties subsequently provided more feedback and the Chapter 28 rules evolved into the third draft dated October 1, 2014.

Staff supports the proposed rulemaking. Staff recommends the Commission approve rescinding the rules in the five existing chapters. In addition, Staff recommends the Commission approve the proposed Chapter 28. Staff comments will point out an issue or recommend minor changes to the following specific rules:

- 28.010 (10), (14) and (16) - regarding the definitions of net jurisdictional revenue, retail service and switched access service, respectively.
- 18.030 (1) and (4) - proposed insertion of the word “exchange”.
- 28.040(4)(C)3 – proposed deletion of this paragraph.

### **Proposed Rescinding of Existing Rules**

This rulemaking proposes to rescind rules in Chapters 2, 3, 30, 32 and 33. In Chapters 2 and 3, the proposal is to rescind any rules solely applicable for telecommunications companies since these two chapters also contain rules applicable for other utilities. In Chapters 30, 32 and 33, the proposal is to rescind all rules contained in these three chapters. Staff supports all of the proposed rescissions. Most of the rescissions completely eliminate the rule; however, some requirements are streamlined and moved to the new Chapter 28. Consolidating rules applicable to telecommunications and IVoIP companies into one chapter should make it easier for parties to locate applicable rules. The rules proposed for rescinding in these five chapters will be separately discussed.

#### **Chapter 2:**

- **4 CSR 240-2.061** (*Filing Requirements for Applications for Expanded Local Calling Area Plans Within a Community of Interest*)

Staff supports the proposed rescission of this rule. Applications for expanded calling plans have not been filed for many years suggesting the rule is outdated and unnecessary.

- **4 CSR 240-2.062** (*Required and Permitted Notices for Telecommunications Companies and IVoIP or Video Service Providers that Reorganize or Change Names*)

Staff supports the proposed rescission of this rule; however, requirements for company name changes should still be maintained in the Commission’s rules. Missouri law requires companies to be registered or certified to provide various telecommunications, IVoIP and video services in Missouri. The Commission needs to be aware of company name changes in order to maintain accurate records. The requirements in this existing rule have been clarified and are proposed in 4 CSR 240-28.030(9). More information about how the existing

requirements compare to the proposed requirements are contained in Staff's comments for 4 CSR 240-28.030.

### Chapter 3:

- **4 CSR 240-3.500** (*Definitions Pertaining Specifically to Telecommunications Company Rules*)

Staff supports the proposed rescission of this rule. Only two terms ("access line" and "tariff") defined by this existing rule are defined in the proposed definition section of rule 4 CSR 240-28.010. The existing definitions for these two terms have been updated in the proposed rule. All other terms are no longer needed to be defined in the proposed Chapter 28 rules.

- **4 CSR 240-3.505** (*Filing Requirements for Telecommunications Company Applications for Certificates of Interexchange Service Authority to Provide Customer-Owned Coin Telephone Service*)

Staff supports the proposed rescission of this rule; however application requirements for authorization to provide certain services should still be maintained in the Commission's rules. Section 392.410, 392.440 and 392.520 RSMo require a company to obtain a certificate of service authority to provide telecommunications services. Application requirements to provide telecommunications, IVolP and video services are proposed in 4 CSR 240-28.030. Information about how the existing requirements compare to the proposed requirements are contained in Staff's comments for 4 CSR 240-28.030.

- **4 CSR 240-3.510** (*Filing Requirements for Telecommunications Company Applications for Certificates of Service Authority to Provide Telecommunications Services, Whether Interexchange, Local Exchange, or Basic Local Exchange*)

Staff supports the proposed rescission of this rule. Staff's prior comments for the proposed recession of 4 CSR 240-3.505 also apply to the proposed recession of this rule.

- **4 CSR 240-3.513** (*Filing and Submission Requirements for Telecommunications Company Applications for Approval of Interconnection Agreements, Amendments to Interconnection Agreements, and for Notices of Adoptions of Interconnection Agreements or Statements of Generally Available Terms*)

Staff supports the proposed rescission of this rule; however, requirements for filing interconnection agreements should still be maintained in the Commission's rules. Sections 251-252 of federal law apply to state commission involvement with interconnection agreements. The requirements in this existing rule have been clarified and are proposed in 4 CSR 240-28.080. More information about how the existing requirements compare to the proposed requirements are contained in Staff's comments for 4 CSR 240-28.080.

- **4 CSR 240-3.515** (*Filing Requirements for Telecommunications Company Applications for Certificates of Service Authority to Provide Shared Tenant Services*)

Staff supports the proposed rescission of this rule. Staff's prior comments for the proposed recession of 4 CSR 240-3.505 also apply to the proposed recession of this rule. Section 392.520 RSMo describes how the Commission will have minimum regulation over shared tenant services. The proposed application requirements for shared tenant services in 4 CSR 240-28.030(6) are more simple than the existing requirements. Information about how the existing requirements compare to the proposed requirements are contained in Staff's comments for 4 CSR 240-28.030.

- **4 CSR 240-3.520** (*Filing Requirements for Telecommunications Company Applications for Authority to Sell, Assign, Lease or Transfer Assets*)

Staff supports the proposed rescission of this rule. This existing rule has been waived for most, if not all, companies pursuant to Section 392.420 RSMo.

- **4 CSR 240-3.525** (*Filing Requirements for Telecommunications Company Applications for Authority to Merge or Consolidate*)

Staff supports the proposed rescission of this rule. This existing rule has been waived for most, if not all, companies pursuant to Section 392.420 RSMo.

- **4 CSR 240-3.530** (*Filing Requirements for Telecommunications Company Applications for Authority to Issue Stock, Bonds, Notes and other Evidences of Indebtedness*)

Staff supports the proposed rescission of this rule. This existing rule has been waived for most, if not all, companies pursuant to Section 392.420 RSMo.

- **4 CSR 240-3.535** (*Filing Requirements for Telecommunications Company Applications for Authority to Acquire the Stock of a Public Utility*)

Staff supports the proposed rescission of this rule. This existing rule has been waived for most, if not all, companies pursuant to Section 392.420 RSMo.

- **4 CSR 240-3.540** (*Annual Report Submission Requirements for Telecommunications Companies*)

Staff supports the proposed rescission of this rule; however, annual report requirements should still be maintained in the Commission's rules. Sections 392.550 and 392.611 continue to require IVoIP providers and telecommunications providers to be subject to reporting requirements. The annual report requirements in this existing rule have been simplified and clarified and are proposed in 4 CSR 240-28.040(2). More information about how the existing requirements compare to the proposed requirements are contained in Staff's comments for 4 CSR 240-28.040.

- **4 CSR 240-3.545** (*Filing Requirements for Telecommunications Company Tariffs*)

Staff supports the proposed rescission of this rule; however, tariff requirements should still be maintained in the Commission's rules. Section 392.461(2) RSMo provides telecommunications companies with the option to maintain a tariff with the Commission. To date, most companies maintain a tariff with the Commission. The proposed tariff filing requirements in 4 CSR 240-28.070 attempt to simplify and clarify existing requirements. More information about how the existing requirements compare to the proposed requirements are contained in Staff's comments for 4 CSR 240-28.070.

- **4 CSR 240-3.550** (*Telecommunications Company Records and Reports*)

Staff supports the proposed rescission of this rule but requirements for outage reporting and disaster recovery plans should still be maintained in Commission rules. Many portions of this existing rule have been waived for most, if not all, companies pursuant to Section 392.420 RSMo. Outage reports and disaster recovery plans have continued to be required of telecommunications companies. Existing requirements for outage reporting and disaster recovery plans have been clarified in proposed rule 4 CSR 240-28.040(5) and (6), respectively. More information about how the existing requirements compare to the proposed requirements are contained in Staff's comments for 4 CSR 240-28.040.

- **4 CSR 240-3.555** (*Telecommunications Company Residential Customer Inquiries*)

Staff supports the proposed rescission of this rule. Industry feedback to earlier drafts of this proposed rulemaking recommended a Commission rule to identify a general procedure if Staff contacts a telecommunications company in order to help resolve a customer's dispute. The proposed procedure in 4 CSR 240-28.060(6) greatly simplifies the procedure found in this rule. More information about how the existing requirements compare to the proposed requirements are contained in Staff's comments for 4 CSR 240-28.060.

- **4 CSR 240-3.560** (*Telecommunications Procedure for Ceasing Operations*)

Staff supports the proposed rescission of this rule; however, requirements for ceasing operations should still be maintained in the Commission's rules. Missouri law requires companies to be registered or certified to provide various telecommunications, IVoIP and video services in Missouri. If a company ceases operation then a simple process should be in place to notify the Commission. Such notice will help with the administration of Commission authorization records and assessments. The requirements in this existing rule have been simplified and clarified and are proposed in 4 CSR 240-28.030(10). More information about how the existing requirements compare to the proposed requirements are contained in Staff's comments for 4 CSR 240-28.030.

- **4 CSR 240-3.565** (*Procedure for Telecommunications Companies That File Bankruptcy*)

Staff supports the proposed rescission of this rule; however, requirements for notifying the Commission of filing for bankruptcy should be maintained in the Commission's rules. Section 392.550 and 392.611 require IVoIP providers and telecommunications companies to be subject to various assessment and reporting requirements, respectively. Notice of a company filing for bankruptcy is helpful if a company subsequently becomes delinquent in assessment responsibilities. The bankruptcy notice requirements in this existing rule have been simplified and clarified and are proposed in 4 CSR 240-28.040(7). More information about how the existing requirements compare to the proposed requirements are contained in Staff's comments for 4 CSR 240-28.040.

## Chapter 30:

- **4 CSR 240-30.020** (*Residential Telephone Underground Systems*)

Staff supports the proposed rescission of this rule. The subject matter of this existing rule exceeds the Commission's authority as currently described in Section 392.611 RSMo.

- **4 CSR 240-30.040** (*Uniform System of Accounts—Class A and Class B Telecommunications Companies*)

Staff supports the proposed rescission of this rule. In Staff's opinion the subject matter of this existing rule exceeds the Commission's current authority as described in Section 392.611 RSMo.

## Chapter 32:

- **4 CSR 240-32.010** (*General Provisions*)

Staff supports the proposed rescission of this rule. In general, the establishment of retail telecommunications service standards exceeds the Commission's current authority as described in Section 392.611 RSMo.

- **4 CSR 240-32.020** (*Definitions*)

Staff supports the proposed rescission of this rule. Only two terms ("access line" and "tariff") defined by this existing rule are defined in the proposed definition section of rule 4 CSR 240-28.010. The existing definitions for these two terms have been updated in the proposed rule. All other terms are no longer needed to be defined in the proposed Chapter 28 rules.

- **4 CSR 240-32.040** (*Metering, Inspections and Tests*)

Staff supports the proposed rescission of this rule. For years, this existing rule has been waived for most, if not all, companies pursuant to Section 392.420 RSMo. More significantly in Staff's opinion the subject matter of this existing rule exceeds the Commission's current authority as described in Section 392.611 RSMo.

- **4 CSR 240-32.050** (*Customer Services*)

Staff supports the proposed rescission of this rule. For years, this existing rule has been waived for most, if not all, companies pursuant to Section 392.420 RSMo. More significantly in Staff's opinion the subject matter of this existing rule



exceeds the Commission's current authority as described in Section 392.611 RSMo.

- **4 CSR 240-32.060** (*Engineering and Maintenance*)

Staff supports the proposed rescission of this rule. For years, this existing rule has been waived for most, if not all, companies pursuant to Section 392.420 RSMo. More significantly in Staff's opinion the subject matter of this existing rule exceeds the Commission's current authority as described in Section 392.611 RSMo.

- **4 CSR 240-32.070** (*Quality of Service*)

Staff supports the proposed rescission of this rule. For years, this existing rule has been waived for most, if not all, companies pursuant to Section 392.420 RSMo. More significantly, in Staff's opinion, the subject matter of this existing rule generally exceeds the Commission's current authority as described in Section 392.611 RSMo.

- **4 CSR 240-32.080** (*Service Objectives and Surveillance Levels*)

Staff supports the proposed rescission of this rule. For years, this existing rule has been waived for most, if not all, companies pursuant to Section 392.420 RSMo. More significantly in Staff's opinion the subject matter of this existing rule exceeds the Commission's current authority as described in Section 392.611 RSMo. Nevertheless Section 392.611 enables telecommunications companies to elect to remain subject to certain statutes, rules, or orders by notification to the Commission. If a company makes such an election then certain requirements from this existing rule are proposed to be simplified in proposed rule 4 CSR 240-28.060(3). More information about how the existing requirements compare to the proposed requirements are contained in Staff's comments for 4 CSR 240-28.060.

- **4 CSR 240-32.090** (*Connection of Equipment and Inside Wiring to the Telecommunications Network*)

Staff supports the proposed rescission of this rule. In Staff's opinion the subject matter of this existing rule exceeds the Commission's current authority as described in Section 392.611 RSMo.

- **4 CSR 240-32.100** (*Provision of Basic Local and Interexchange Telecommunications Service*)



Staff supports the proposed rescission of this rule. For years, this existing rule has been waived for most, if not all, companies pursuant to Section 392.420 RSMo. More significantly in Staff's opinion the subject matter of this existing rule exceeds the Commission's current authority as described in Section 392.611 RSMo.

- **4 CSR 240-32.120** (*Snap-Back Requirements for Basic Local Telecommunications Companies*)

Staff supports the proposed rescission of this rule. In Staff's opinion the subject matter of this existing rule exceeds the Commission's current authority as described in Section 392.611 RSMo.

- **4 CSR 240-32.130** (*General Provisions—Prepaid Interexchange Calling Services*)

Staff supports the proposed rescission of this rule. For years, this existing rule has been waived for most, if not all, companies pursuant to Section 392.420 RSMo. More significantly in Staff's opinion the subject matter of this existing rule exceeds the Commission's current authority as described in Section 392.611 RSMo.

- **4 CSR 240-32.140** (*Definitions—Prepaid Interexchange Calling Services*)

Staff supports the proposed rescission of this rule. In Staff's opinion the subject matter of this existing rule exceeds the Commission's current authority as described in Section 392.611 RSMo.

- **4 CSR 240-32.150** (*Qualifications for and Responsibilities of the Prepaid Calling Services*)

Staff supports the proposed rescission of this rule. For years, this existing rule has been waived for most, if not all, companies pursuant to Section 392.420 RSMo. More significantly in Staff's opinion the subject matter of this existing rule exceeds the Commission's current authority as described in Section 392.611 RSMo.

- **4 CSR 240-32.160** (*Customer Disclosure Requirements*)

Staff supports the proposed rescission of this rule. For years, this existing rule has been waived for most, if not all, companies pursuant to Section 392.420 RSMo. More significantly in Staff's opinion the subject matter of this existing rule

exceeds the Commission's current authority as described in Section 392.611 RSMo.

- **4 CSR 240-32.170** (*Standards for Prepaid Calling Service*)

Staff supports the proposed rescission of this rule. For years, this existing rule has been waived for most, if not all, companies pursuant to Section 392.420 RSMo. More significantly in Staff's opinion the subject matter of this existing rule exceeds the Commission's current authority as described in Section 392.611 RSMo.

- **4 CSR 240-32.180** (*Definitions—Caller identification Blocking Service*)

Staff supports the proposed rescission of this rule. For years, this existing rule has been waived for most, if not all, companies pursuant to Section 392.420 RSMo. More significantly in Staff's opinion the subject matter of this existing rule exceeds the Commission's current authority as described in Section 392.611 RSMo.

- **4 CSR 240-32.190** (*Standards for Providing Caller identification Blocking Service*)

Staff supports the proposed rescission of this rule. For years, this existing rule has been waived for most, if not all, companies pursuant to Section 392.420 RSMo. More significantly in Staff's opinion the subject matter of this existing rule exceeds the Commission's current authority as described in Section 392.611 RSMo.

- **4 CSR 240-32.200** (*General Provisions for the Assignment, Provision and Termination of 211 Service*)

Staff supports the proposed rescission of this rule; however, requirements for 211 service should still be maintained in the Commission's rules. The requirements in this existing rule have been simplified in proposed rule 4 CSR 240-28.090. More information about how the existing requirements compare to the proposed requirements are contained in Staff's comments for 4 CSR 240-28.090.

### **Chapter 33:**

- **4 CSR 240-33.010** (*General Provisions*)

Staff supports the proposed rescission of this rule. In general, the establishment of retail telecommunications service and billing practices exceed the Commission's current authority as described in Section 392.611 RSMo.

- **4 CSR 240-33.020** (*Definitions*)

Staff supports the proposed rescission of this rule. Only two terms ("access line" and "tariff") defined by this existing rule are defined in the proposed definition section of rule 4 CSR 240-28.010. The existing definitions for these two terms have been updated in the proposed rule. All other terms are no longer needed to be defined in the proposed Chapter 28 rules.

- **4 CSR 240-33.040** (*Billing and payment Standards for Residential Customers*)

Staff supports the proposed rescission of this rule. For years, the majority of this existing rule has been waived for most, if not all, companies pursuant to Section 392.420 RSMo. More significantly in Staff's opinion the subject matter of this existing rule exceeds the Commission's current authority as described in Section 392.611 RSMo.

- **4 CSR 240-33.045** (*Requiring Clear Identification and Placement of Separately Identified Charges on Customer Bills*)

Staff supports the proposed rescission of this rule. For years, this existing rule has been waived for most, if not all, companies pursuant to Section 392.420 RSMo. More significantly in Staff's opinion the subject matter of this existing rule exceeds the Commission's current authority as described in Section 392.611 RSMo.

- **4 CSR 240-33.050** (*Deposits and Guarantees of Payment for Residential Customers*)

Staff supports the proposed rescission of this rule. In Staff's opinion the subject matter of this existing rule exceeds the Commission's current authority as described in Section 392.611 RSMo.

- **4 CSR 240-33.060** (*Residential Customer Inquiries*)

Staff supports the proposed rescission of this rule. The subject matter of this existing rule involving bill format and retail customer relations exceeds the Commission's current authority as described in Section 392.611 RSMo.

- **4 CSR 240-33.070** (*Discontinuance of Service to Residential Customers*)

Staff supports the proposed rescission of this rule. In Staff's opinion the subject matter of this existing rule exceeds the Commission's current authority as described in Section 392.611 RSMo.

- **4 CSR 240-33.080** (*Disputes by Residential Customers*)

Staff supports the proposed rescission of this rule. In Staff's opinion, the specific requirements of this existing rule exceed the Commission's authority as currently described in Section 392.611 RSMo.

- **4 CSR 240-33.090** (*Settlement Agreements with Residential Customers*)

Staff supports the proposed rescission of this rule. In Staff's opinion the subject matter of this existing rule exceeds the Commission's current authority as described in Section 392.611 RSMo.

- **4 CSR 240-33.100** (*Variance*)

Staff supports the proposed rescission of this rule. In response to industry feedback simplified variance procedures are proposed in 4 CSR 240-28.020(6).

- **4 CSR 240-33.110** (*Commission Complaint Procedures*)

Staff supports the proposed rescission of this rule. Industry feedback to earlier drafts of this proposed rulemaking recommended a Commission rule to identify a general procedure if Staff contacts a telecommunications company in order to help resolve a customer's dispute. The proposed procedure in 4 CSR 240-28.060(6) greatly simplifies the procedure found in this rule. More information about how the existing requirements compare to the proposed requirements are contained in Staff's comments for 4 CSR 240-28.060.

- **4 CSR 240-33.120** (*Payment Discounts for Schools and Libraries that Receive Federal Universal Service Fund Support*)

Staff supports the proposed rescission of this rule. Federal requirements (specifically 47 CFR Part 54 Subpart F regarding Universal Service Support for Schools and Libraries) should be sufficient to protect Missourians as it relates to the availability of discounted telecommunications service for schools and libraries.

- **4 CSR 240-33.130** (*Operator Service*)

Staff supports the proposed rescission of this rule. In Staff's opinion the subject matter of this existing rule exceeds the Commission's current authority as described in Section 392.611 RSMo.

- **4 CSR 240-33.140** (*Pay Telephone*)

Staff supports the proposed rescission of this rule. In Staff's opinion the subject matter of this existing rule exceeds the Commission's current authority as described in Section 392.611 RSMo.

- **4 CSR 240-33.150** (*Verification of Orders for Changing Telecommunications Service Provider*)

Staff supports the proposed rescission of this rule; however, Section 392.540 RSMo requires the Missouri Commission to maintain rules regarding changes to a subscriber's provider of telecommunications service. The proposed rule in 4 CSR 240-28.060(5) attempts to fulfill this Missouri statutory requirement for such a rule.

- **4 CSR 240-33.160** (*Customer Proprietary Network Information*)

Staff supports the proposed rescission of this rule. In Staff's opinion the subject matter of this existing rule exceeds the Commission's current authority as described in Section 392.611 RSMo

- **4 CSR 240-33.170** (*Relay Missouri Surcharge Billing and Collections Standards*)

Staff supports the proposed rescission of this rule; however, Relay Missouri assessment requirements should still be maintained in the Commission's rules. Section 209.255 RSMo and Section 392.550(5)(a) require telecommunications and IVoIP companies, respectively, to be subject to the Relay Missouri assessment. Proposed rule 4 CSR 240-28.050(3) attempts to simplify and clarify the requirements associated with the Relay Missouri assessment. More information about how the existing requirements compare to the proposed requirements are contained in Staff's comments for 4 CSR 240-28.050.

### **Proposed Rules:**

Chapter 28 proposes nine rules. Staff supports all nine rules and will provide its perspective of each rule by separately commenting on each rule; however, Staff comments will point out issues or recommend minor changes in 4 CSR 240-28.010

(Definitions), 4 CSR 240-28.030 (Certification and Registration) and 4 CSR 240-28.040 (Reporting).

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

This proposed rule defines various terms used in Chapter 28. This rule intentionally does not attempt to cite or define any terms currently defined by Missouri statutes. Feedback also helped shape the proposed definitions for seven terms (access line, certification, detariff, net jurisdictional revenue, switched access service, tariff and wholesale service). Staff's comments point out an issue with Section (10) in defining the term "net jurisdictional revenue." In addition, Staff's comments recommend revising or deleting Section (14) and Section (16) - the definitions for "retail service" and "switched access service", respectively.

**Section (10):** This section defines the term "Net Jurisdictional Revenue." The proposed definition is somewhat unusual in that the term is defined by citing another rule. Specifically the proposed definition reads: *This term is defined in 4 CSR 240-31.010(17).*

The industry, as well as the Commission, may be unaware 4 CSR 240-31.010(17) has an issue. The issue is the existing definition in Chapter 31 only references revenue generated from IVoIP services and does not mention revenue from telecommunications services. The word "telecommunications" was inadvertently dropped in the Commission's Final Order of Rulemaking in Case No. TX-2013-0324 as the Commission made other revisions to this definition. The existing definition reads as follows except Staff inserted the word "telecommunications" in its original location before being inadvertently omitted:

*(17) Net jurisdictional revenue—Net jurisdictional revenue means all retail revenues received from end-user customers resulting from the provision of intrastate regulated **telecommunications** and IVoIP services, but shall not include revenue from payphone operations, taxes, and uncollectibles.*

Net jurisdictional revenue has always included "telecommunications" and ever since Section 392.550 RSMo went into effect net jurisdictional revenue has included revenue derived from both telecommunications and IVoIP services. Staff is fine with the proposal to define this term by citing 4 CSR 240-31.010(17); however, the definition in 4 CSR 240-31.010(17) should eventually be corrected.

**Section (14):** This section defines the term "retail service." This phrase is not used in proposed Chapter 28; however, the word "retail" is used once in 4 CSR 240-28.020 (General Provisions) and .30 (Certification and Registration) and twice in .070 (Tariffs). Consequently Staff recommends Section (14) be amended by either dropping the word

“service” or alternatively simply delete the definition. Staff is indifferent to either approach; however, if the Commission receives no feedback on this issue then Staff recommends the Commission delete the definition and re-number the remaining definitions in this rule.

**Section (16):** This section defines the term “switched access service.” This term is used once in 4 CSR 240-28.070 (Tariffs) serving as an example of a commission-regulated wholesale service. In Staff’s opinion this definition is unnecessary and could be deleted for the term is commonly used within the industry. Staff is indifferent on whether the Commission retains or deletes this definition.

#### **4 CSR 240-28.020 (General Provisions)**

This proposed rule describes general requirements applicable to providers of telecommunications and IVoIP service in Missouri. Feedback shaped the wording contained in all six sections in this rule. Staff supports the proposed rule.

#### **4 CSR 240-28.030 (Certification or Registration Requirements)**

This proposed rule identifies application requirements to obtain a certificate of service authority to provide telecommunications services or registration requirements to provide IVoIP or video services. Section 392.611.4 allows the registration process to be used for obtaining certificates of service authority. Feedback produced the rule’s wording in Sections (1), (2), (3), (7), (8), (9), and (10). Staff supports the proposed rule; however, Staff recommends amending Sections (1) and (4).

**Section (1):** This section codifies the requirement to be certificated or registered as prescribed by Missouri statutes. Staff recommends 4 CSR 240-28.030(1)(B) be amended by inserting the word “exchange” as follows:

*(B) Certificate of service authority to provide non-switched local  
**exchange** telecommunications service;*

This proposed amendment makes the phrase “non-switched local exchange telecommunications service” consistent with 4 CSR 240-28.010(11).

**Section (4):** This section codifies for the first time the existing IVoIP service registration process. This section also applies this same process to basic local, non-switched local and interexchange telecommunications service applications as contemplated by Section 392.611.4 RSMo. Staff recommends the initial portion of Section (4) be amended by inserting the word “exchange” as follows:

*(4) An application to provide basic local telecommunications service, non-switched local **exchange** telecommunications service, interexchange....*



This proposed amendment makes the phrase “non-switched local exchange telecommunications service” consistent with 4 CSR 240-28.010(11).

#### **4 CSR 240-28.040 Reporting Requirements**

This proposed rule identifies all reporting requirements applicable to telecommunications providers. IVoIP providers are subject to some, but not all, of these requirements. Staff recommends revising proposed rule 4 CSR 240-28.040(4)(A)3. Staff will also comment on Sections 5, 6 and 7.

**Section (4):** This section codifies the requirement to submit a net jurisdictional revenue report to the Missouri USF administrator. Requirements for this report are already described in existing rule 4 CSR 240-31.060(3) and the proposed rule cites this existing rule. The proposed rule differs from 4 CSR 240-31.060(3) by clarifying certain revenue reporting issues. For example the proposed rule acknowledges the FCC’s safe harbor percentage applicable to IVoIP providers unable to distinguish between intrastate versus interstate jurisdictions as well as the FCC’s requirement for separating non-switched private line revenue into intrastate versus interstate jurisdictions. Proposed rule 4 CSR 240-28.040(C) provides two methods for identifying net jurisdictional revenues for services bundled with other services not considered to be telecommunications or IVoIP services.

Staff recommends the Commission delete Paragraph 3 of 4 CSR 240-28.040(4)(C)3 because this paragraph is redundant. This paragraph reads:

*3. IVoIP providers unable to distinguish between intrastate versus interstate jurisdictions may apply the safe harbor provision described in subsection (4)(B) to either of these two (2) methods;*

Paragraph 3 is redundant because Subsection (B) describes the safe harbor provision. Deleting Paragraph 3 makes the rule cleaner since Subsection (C) describes only two methods for distinguishing bundled service revenue.

**Section (5), (6) and (7):** Section (5) maintains the outage reporting requirement in existing rule 4 CSR 240-3.550(5)(D). Section (6) maintains the requirement to submit a disaster recovery plan in existing rule 4 CSR 240-3.550(5)(E). Section (7) maintains the requirement to notify the Commission if the company files for bankruptcy. Sections (5) and (6) solely apply to telecommunications companies and do not apply to STS, payphone or IVoIP providers. Section (7) applies to telecommunications companies and IVoIP providers.

Staff supports the proposed rules and finds requirements for telecommunications companies to report significant outages and file a disaster recovery plan to be helpful in

emergency situations and Staff's work with SEMA. The proposed bankruptcy notification requirement requires a minimal amount of information notifying the Commission of the company's bankruptcy filing as well as subsequent resolution. Knowing if a company has filed for bankruptcy is helpful. For example if the company becomes delinquent in various assessment responsibilities Staff anticipates not taking any action against the company until the bankruptcy proceeding has been resolved.

#### **4 CSR 240-28.050 Assessment Requirements**

This proposed rule identifies all assessment requirements applicable to companies offering telecommunications service or IVoIP service. The proposed rule is organized into three sections reflecting requirements for three assessments:

**Section (1):** This section codifies the requirements associated with the Missouri Commission assessment. Existing Commission rules do not address the Commission's assessment. The proposed rule attempts to reflect current practices/requirements associated with the Commission's assessment. Establishing such a rule is helpful in providing guidance to companies on the expectations for the Commission's assessment.

**Section (2):** This section pertains to the Missouri USF assessment. The proposed rule references 4 CSR 240-31.060 which identifies requirements associated with the Missouri USF assessment. In addition, the proposed rule attempts to clarify companies will not receive an invoice or bill for the Missouri USF assessment but late fees will apply if the company fails to pay in a timely manner. Admittedly this rule may be considered unnecessary given the existence of 4 CSR 240-31.060; however, Chapter 28 is designed to try and identify all applicable requirements in one chapter.

**Section (3):** This section replaces the requirements of existing rule 4 CSR 240-33.170. The proposed rule attempts to simplify and more clearly explain existing requirements associated with the Relay Missouri assessment.

#### **4 CSR 240-28.060 Service Requirements**

This proposed rule establishes service requirements applicable to companies providing telecommunications service or IVoIP service. The six sections of this rule are discussed below:

**Section (1):** This section requires a company providing intrastate telecommunications service to comply with the safety standards identified in 4 CSR 240-18.010. Chapter 18 currently requires electric and telecommunications companies to comply with certain portions of the 2012 edition of the National Electrical Safety Code (NESC). Specifically Part 2 of the NESC pertains to safety rules for overhead electric and communications

lines while Part 3 pertains to underground electric and communications lines. Section 9 of the NESC requires certain grounding methods for electric and communications facilities.

Staff supports the proposed rule. The NESC identifies standards for the safe installation, operation and maintenance of electrical and communications systems. Compliance with NESC standards is voluntary unless adopted for compliance by a government authority. Staff recommends the Commission adopt this section of the proposed rule for telecommunications<sup>1</sup> because many problems associated with communications trouble are caused by the lack of or inferior bonding and grounding practices. In Staff's opinion the Commission has the authority to establish this requirement based on Section 392.611.3 which states,

*"...Notwithstanding any other provision of this section, nothing in this section extends, modifies, or restricts any authority the commission may have arising under state law relating to interconnection obligations or other intercarrier issue including, but not limited to, intercarrier compensation, **network configuration, or other matters.**" (emphasis added)*

**Section (2):** This section proposes to require any company certificated or registered with the commission to have a duty to ensure calls are being completed and requires that no company shall intentionally frustrate, delay, impede or prevent the completion of any intrastate call. Staff supports the proposed rule. Docket No. TW-2012-0112 provides significant background information regarding calling problems in Missouri.<sup>2</sup> In particular Staff's March 29, 2013 memo in the case provides a good overview and assessment of call completion problems. The rule is primarily needed because some originating carriers are not accepting any responsibility to ensure calls are being completed which can greatly complicate resolving call completion problems. A concern also exists because some companies are frustrating attempts to complete a call in order to generate expense savings.

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<sup>1</sup> Although not applicable to these comments, for reference, Staff points out that the Commission has adopted the NESC for electric providers in 4 CSR 240-18.010.

<sup>2</sup> Case No. TW-2012-0112 *An Investigation into Call Routing and Call completion Problems in the State of Missouri*. This case was established after two groups of small rural incumbent local exchange telephone companies filed separate pleadings asking the Commission to open an investigation to examine call routing and call completion problems in the state. See Case Nos. TO-2012-0104 and IO-2012-0106.

In November 8, 2013, the FCC issued a Report and Order which among other things established call monitoring requirements.<sup>3</sup> Only recently have carriers been instructed to begin recording and retaining data required for rural call completion reporting.<sup>4</sup> The proposed rule complements the FCC's actions. The proposed rule does not over-burden companies yet provides the Missouri Commission with some enforcement capabilities should problems persist. In Staff's opinion, the proposed rule is within the Commission's authority per Section 392.611.3 as echoed by several parties in comments filed in Case No. TW-2012-0112.<sup>5</sup>

**Section (3) and (4):** These two sections propose to address a provision in Section 392.611.1 that reads,

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

Section (3) proposes to establish three quality of service metrics should a company make such an election.

**Section (5):** Section 392.540 RSMo requires the Commission to have rules regarding the changing of telecommunications providers. Section (5) proposes to simply cite the applicable portion of the Federal Communications Commission rules dealing with this subject. This proposed section greatly streamlines existing rule 4 CSR 240-33.150.

**Section (6):** This section pertains to procedures for Staff to contact a telecommunications company in order to help resolve a customer dispute. The section was inserted based on industry feedback. The proposed procedure streamlines procedures in the following three existing rules: 4 CSR 240-3.555, 33.060 and 33.110. The proposed procedure primarily ensures companies have up to 30 days to respond to a Staff inquiry regarding a customer's dispute.

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<sup>3</sup> Report and Order and Further Notice of Proposed Rulemaking; WC Docket No. 13-39 In the Matter of Rural Call Completion; FCC 13-135; released November 8, 2013.

<sup>4</sup> Public Notice; Wireline Competition Bureau announces that Certain Long Distance Providers Must Begin Recording the Data Required for Rural Call Completion Reporting; WC Docket No. 13-39; DA 15-291; released March 4, 2015.

<sup>5</sup> CenturyLink, AT&T and Missouri rural small telephone companies all indicate the legislation allows the Missouri Commission to have authority over wholesale interconnection issues such as addressing call completion problems.

#### **4 CSR 240-28.070 Tariffs**

This rule proposes to maintain tariff requirements for telecommunications companies currently contained in 4 CSR 240-3.545; however, the proposed rule greatly simplifies these requirements. The proposed rule also acknowledges issues relating to the statutory provision in Section 392.461(2) RSMO that provides telecommunications companies the option to detariff telecommunications services offered or provided to residential or business retail end user customers.

Staff supports approval of the proposed rule. The six sections in the proposed rule attempt to:

- Section (1): Clarifies a tariff is still required for wholesale services such as switched access service.
- Section (2): Indicates a tariff is discretionary for retail services. If a company detariffs then a publicly accessible website shall identify the retail rates for those services.
- Section (3): Requires a tariff to be electronically filed in EFIS.
- Section (4): Identifies formatting requirements for tariffs.
- Section (5): References 4 CSR 240-28.030(9)(D) to address tariffing issues if a company maintains a tariff and changes its name.
- Section (6): Establishes a de-tariffing procedure.

This rule is expected to be non-controversial. Sections (1) and (5) were revised to address feedback in an earlier phase of this rulemaking.

#### **4 CSR 240-28.080 Interconnection Agreements**

This rule proposes to simplify and clarify interconnection agreement requirements currently contained in 4 CSR 240-3.513. This rule contains only two sections.

**Section (1):** This section proposes a very streamlined process for Commission approval of an interconnection agreement or amendment to an interconnection agreement that has not previously been approved.

**Section (2):** This section proposes a process for adopting an approved interconnection agreement or amendment that has been previously approved by the Commission. Staff supports the proposed rule. Feedback helped develop the proposed rule wording in both sections; however, stakeholders could not agree on the wording for one sentence in this section. The sentence at issue reads:

*“...Approved interconnection agreements whose original term has expired, but which remain in effect pursuant to term renewal or extension provisions, will be subject to adoption for so long as the interconnection agreement remains subject to the renewal or extension provision...”*

The desire to have this sort of provision in the rules was raised by a segment of the industry in the working docket phase of this rulemaking. Furthermore, Section (2) contains a proposed process for resolving disputes. For example, subsections (C) and (D) provides a process to resolve disputes if a party objects to a company’s desire to adopt an approved interconnection agreement whose original term has expired but remains in effect. In Staff’s opinion, the dispute resolution process provided in subsections (C) and (D) is reasonable and should address any concerns over this section.

#### **4 CSR 240-28.090 211 Service**

This rule proposes to maintain but streamline the Commission’s requirements for an entity providing informational and referral services accessible by dialing “211”. Existing requirements are currently contained in 4 CSR 240-32.200. The existing rule is streamlined from 17 sections to only 4 sections. The requirement to submit an annual report is changed to reflect a calendar year rather than the state’s fiscal year. Staff has shared the proposed rule with the existing two providers of 211 service who expressed no concerns regarding the proposed rule. Staff supports the proposed rule.

#### **Summary**

Staff supports the proposed rulemaking. These comments provide Staff’s rationale for supporting the rules proposed for rescinding in this rulemaking as well as the proposed Chapter 28. Issues or slight changes are expressed for the following rules:

- **28.010 (10):** This section defines the term “net jurisdictional revenue” by simply referencing 4 CSR 240-31.010(17). Staff points out with an existing issue in 4 CSR 240-31.010(17) whereby the word “telecommunications” was inadvertently omitted.
- **28.010 (14):** This section defines the term “retail service”. Staff offers a proposed adjustment; however, Staff recommends the Commission simply delete this section if no feedback is provided by other parties for the definition.
- **28.010 (16):** This section defines the term “switched access service”. The term is only used once in a minor example and consequently could be deleted.

- **28.030 (1) and (4):** The word “exchange” should be inserted into the phrase “non-switched local *exchange* service”.
- **28.040(4)(C)3:** Staff recommends deleting this proposed paragraph because it is redundant.



**Schedule No. 1**

<b>Existing Rules Proposed for Rescinding</b>		
<b>Rule</b>	<b>Subject</b>	<b>Proposed Chapter 28 Cite if Requirements are Maintained in Chapter 28</b>
2.061	Application Requirements for Expanded Calling Plans	-
2.062	Notice Requirements for Company Name Changes	28.030(9).
3.500, 32.020, 33.020	Definitions	28.010.
3.505	Application Requirements IXC & Payphone Certificates	28.030.
3.510	Application Requirements Basic Local, Local, IXC	28.030.
3.513	Filing Requirements for Interconnection Agreements	28.080.
3.515	Application Requirements Shared Tenant Services Certif.	28.030.
3.520	Filing Requirements to Sell or Transfer Assets	-
3.525	Filing Requirements to Merge or Consolidate	-
3.530	Filing Requirements to Issue Stocks, Bonds, etc.	-
3.535	Filing Requirements to Acquire Stock of Public Utility	-
3.540	Annual Report Submission Requirements	28.040(2)
3.545	Tariff Filing Requirements	28.070
3.550	Outage Reports/Disaster Recovery Plans	28.040(5)&(6)
3.555	Customer Inquiries	28.060(6)
3.560	Requirements for Ceasing Operations	28.030(10)
3.565	Notice Requirements for Bankruptcies	28.040(7)
30.020	Requirements for Residential Underground Systems	-
30.040	Uniform System of Accounts	-
32.040	Metering, Inspections, Tests	-
32.050	Customer Services	-
32.060	Engineering and Maintenance	-
32.070	Quality of Service	-
32.080	Service Objectives and Surveillance	28.060(3)

	Levels	
32.090	Connection of Equipment and Inside Wiring to Network	-
32.100	Provision of Basic Local and IXC Service	-
32.120	Snap-Back Requirements	-
32.150, 160 & 170	Prepaid Calling Requirements	-
32.180 & 190	Caller ID Requirements	-
32.200	211 Service	28.090
33.040	Billing and Payment Standards	-
33.045	Clear ID of Separately Identified Charges	-
33.050	Deposit Requirements	-
33.060	Customer Inquiries	28.060(6)
33.070	Discontinuance of Service to Residential Customers	-
33.080	Disputes by Residential Customers	-
33.090	Settlement Agreements with Residential Customers	-
33.100	Variance Provisions	28.020(6)
33.110	Complaint Procedures	28.060(6)
33.120	Schools and Libraries Discounts	-
33.130	Operator Services	-
33.140	Pay Telephone	-
33.150	Verification of Orders for Changing Providers	28.060(5)
33.160	Customer Proprietary Network Information	-
33.170	Relay Missouri Billing and Collection Standards	28.050(3)

**Schedule No. 2**

<b>New Subject Matter Currently Not Addressed in Existing Rules</b>	
<b>Subject</b>	<b>Proposed Rule</b>
IVoIP Registration Requirements	28.030(4)
Video Service Registration Requirements	28.030(5)
Clarify Certificates/Registrations are Non-Transferrable	28.030(8)
Requirement to Maintain Updated EFIS Contacts	28.040(1)
Statement of Revenue Report Requirements	28.040(3)
Net Jurisdictional Revenue Report Requirements	28.040(4)
Commission Assessment Requirements	28.050(1)
Ensure compliance with safety standards of 18.010	28.060(1)
Call Completion (Cannot impede or frustrate calls)	28.060(2)
Applicable requirements if a company elects to remain subject to regulations...	28.060(3)

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 29<sup>th</sup> day of June, 2015.

