

1 STATE OF MISSOURI
2 PUBLIC SERVICE COMMISSION
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6 TRANSCRIPT OF PROCEEDINGS
7 Public Hearing
8 November 1, 2007
9 Jefferson City, Missouri
Volume 1

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12 In the Matter of a Proposed)
Rulemaking to Amend)
13 4 CSR 240-3.570, Requirements) Case No. TX-2008-0007
For Carrier Designation as)
14 Eligible Telecommunications)
Carriers)

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17 COLLEEN M. DALE, Presiding,
CHIEF REGULATORY LAW JUDGE.

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22 REPORTED BY:

23 KELLENE K. FEDDERSEN, CSR, RPR, CCR
MIDWEST LITIGATION SERVICES

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5 FOR: Staff of the Missouri Public
6 Service Commission.

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1 P R O C E E D I N G S

2 JUDGE DALE: We are here today,
3 November 1st, 2007 in TX-2008-0007, in the matter of a
4 proposed rulemaking to amend 4 CSR 240-3.570, requirements
5 for carrier designation as eligible telecommunications
6 carriers.

7 We'll take entries of appearance, beginning
8 with Staff.

9 MS. KLIETHERMES: Sarah Kliethermes for
10 Staff, 200 Madison Street, Jefferson City, Missouri
11 65012 -- 102.

12 JUDGE DALE: Anyone else? Thank you.
13 Well, it is a very heavily attended hearing. Staff, if
14 you'll call your first witness.

15 MS. KLIETHERMES: Adam McKinnie.

16 (Witness sworn.)

17 JUDGE DALE: Thank you. Please be seated.
18 You may inquire.

19 ADAM MCKINNIE testified as follows:

20 DIRECT EXAMINATION BY MS. KLIETHERMES:

21 Q. Adam, I believe you have some comments to
22 tender?

23 A. That is correct. Good morning.

24 JUDGE DALE: Good morning.

25 THE WITNESS: Staff filed comments in

1 support of the proposed rule on Tuesday of this week,
2 October 30th. These comments provide reasons why Staff is
3 in favor of the proposed rule as written. The proposed
4 rule mainly codifies existing annual federal USF
5 certification procedures for incumbent local exchange
6 carriers, or ILECs.

7 The proposed rule also promotes parity in
8 the certification process between different types of
9 carriers when appropriate. Furthermore, the proposed rule
10 promotes the concept of fiscal responsibility of carriers
11 receiving monies from the federal USF.

12 The only party other than Staff who has
13 filed comments as of this morning, except for the party
14 who apparently just filed, on the proposed rule is the
15 Missouri Telecommunications Industry Association, or MTIA.
16 I will now briefly summarize the comments about the rule
17 MTIA has brought forth in their comments and explain why
18 no changes to the existing rule are necessary.

19 First, MTIA says the rulemaking is not
20 necessary and that proposing new rules on ILECs is
21 inappropriate at this time as the current annual USF
22 certification procedure works, the federal USF is in flux,
23 and in other instances parties are working towards
24 streamlining rules.

25 While Staff is hopeful federal USF reform

1 is imminent, Staff supports this rulemaking to codify the
2 existing annual federal USF certification procedure.
3 While the informal process has worked well, it is
4 preferable to have the procedure set down within a rule.
5 Staff supports the proposed rule as written.

6 Secondly, MTIA expresses concern about
7 paragraph 4, CSR 240-3.570(4)(c)2, which would require an
8 ILEC requesting certification to, quote, submit a
9 statement that costs incurred and/or estimated
10 budget/investment amounts were no greater than necessary
11 to provide customers in the ILEC's service area access to
12 telecommunications and information services that are
13 reasonably comparable to those in urban areas. MTIA
14 states a standard of this nature is subjective and
15 inconsistent with federal requirements.

16 Staff supports this portion of the
17 rulemaking because it promotes fiscal responsibility.
18 This portion of the rule is not requiring a demonstration
19 and does not set up any framework to evaluate the
20 statement but just requires a statement itself. Staff
21 notes that the statement is also required of competitive
22 ETCs, which are competitive local exchange carriers, or
23 CLECs, and wireless carriers in paragraph 4 CSR
24 240-3.570(4)(b)4.

25 Staff does not see the statement as being

1 contrary to the federal standards. Staff supports the
2 proposed rule as written.

3 Third, MTIA expresses concern about
4 paragraph 4, CSR 240-3.570(4)(c)3 as introducing new,
5 costly certification requirements. Staff supports this
6 section of the proposed rule as it is only codifying
7 annual existing certification procedures.

8 Fourth, MTIA states that portions of this
9 rule are confusing in that it is difficult to tell which
10 portions of the rule apply to what type of carrier.

11 Staff points out that under Section 4 of
12 the proposed rule, the first three subsections are clearly
13 labeled by what type of carriers need to follow what
14 portion of the proposed rule. Subsection 4A contains
15 requirements applicable to all ETCs, including ILECs.
16 Subsection 4B contains requirements applicable to ETCs,
17 which is defined as competitors only, CLECs and wireless
18 carriers. Subsection 4C contains requirements applicable
19 to ILECs.

20 It is Staff's understanding that the
21 language contained in each subsection will only apply to
22 the carrier designated in the header for the subsection
23 and to the annual certification filing requirements noted
24 as the header to subsection 4. Staff supports the
25 proposed rule as written.

1 Staff did consider redefining the term ETC
2 to include ILECs, but the remainder of the ETC rule, which
3 is not at issue in this rulemaking, largely only applies
4 to competitors. If the definition of ETC were changed,
5 the majority of the rule would have to read applicable to
6 all ETCs except ILECs.

7 I'd be more than glad to answer any
8 questions at this time. Thank you.

9 JUDGE DALE: I don't actually have any
10 questions. Thank you very much, Mr. McKinnie.

11 THE WITNESS: Thank you.

12 JUDGE DALE: Well, is there anyone else who
13 wishes to comment or testify concerning this rule?

14 MR. TELTHORST: Your Honor, Rick Telthorst
15 on behalf of Missouri Telecommunications Industry
16 Association. As Mr. McKinnie indicated, we have filed --

17 JUDGE DALE: Actually, if you can come to
18 the microphone.

19 MR. TELTHORST: Good morning. I'm Rick
20 Telthorst, president of the Missouri Telecommunications
21 Industry Association. Our offices are at 312 East Capitol
22 Avenue, Jefferson City, Missouri.

23 As has been indicated, we did file
24 comments, written comments on the rule. I don't have any
25 additional comments to make this morning, but I'd be happy

1 to stand for questions.

2 JUDGE DALE: Thank you. I don't have any
3 questions at this time.

4 MR. TELTHORST: Thank you.

5 JUDGE DALE: Are there any other parties
6 wishing to comment or testify? Hearing none, then we will
7 conclude this proceeding, move on to the next phase of the
8 rulemaking process. Go off the record.

9 WHEREUPON, the public hearing was
10 concluded.

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1 C E R T I F I C A T E

2 STATE OF MISSOURI)
3) ss.
4 COUNTY OF COLE)

5 I, Kellene K. Feddersen, Certified
6 Shorthand Reporter with the firm of Midwest Litigation
7 Services, and Notary Public within and for the State of
8 Missouri, do hereby certify that I was personally present
9 at the proceedings had in the above-entitled cause at the
10 time and place set forth in the caption sheet thereof;
11 that I then and there took down in Stenotype the
12 proceedings had; and that the foregoing is a full, true
13 and correct transcript of such Stenotype notes so made at
14 such time and place.

15 Given at my office in the City of
16 Jefferson, County of Cole, State of Missouri.

17 Kellene K. Feddersen, RPR, CSR, CCR
18 Notary Public (County of Cole)
19 My commission expires March 28, 2009.
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