

Jason Kander

Secretary of State
Administrative Rules Division

RULE TRANSMITTAL

Administrative Rules Stamp

FILED
August 27, 2015
Data Center
Missouri Public
Service Commission

Rule Number 4 CSR 240-28.040

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

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TYPE OF RULEMAKING ACTION TO BE TAKEN

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

Effective Date for the Order _____

☐ Statutory 30 days OR Specific date _____

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

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

Sections (2)(B), (3), (4)(C), (5), and (6) are amended.

Small Business Regulatory
Fairness Board (DED) Stamp

JCAR Stamp

JOINT COMMITTEE ON
AUG 26 2015
ADMINISTRATIVE RULES



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

Re: 4 CSR 240-28.040 Reporting Requirements

Dear Secretary Kander,

CERTIFICATION OF ADMINISTRATIVE RULE

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

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

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

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Enclosures

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

ORDER OF RULEMAKING

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

4 CSR 240-28.040 Reporting Requirements is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on May 1, 2015 (40 MoReg 558). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

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

COMMENT #1: MCTA asks the commission to revise the procedures for requesting an extension of time to file an annual report described in subsection 28.040(2)(B). MCTA says its changes are designed to avoid confusion regarding the application of the rule to requests for extension submitted after April 15, or for



more than 30 days. Staff replied that it believes the language included in the proposed rule is sufficient.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with MCTA that the proposed revised language appropriately clarifies the procedure for requesting an extension. The commission will make the proposed modification.

COMMENT #2: MTIA asks the commission to correct a reference in subsection 28.040(3)(A) to “annual report” to “statement of revenue”.

RESPONSE AND EXPLANATION OF CHANGE: MTIA is correct. The reference should be to the statement of revenue form. The commission will make the proposed modification.

COMMENT #3: Staff advises the commission to delete paragraph 28.040(4)(C)3 because it duplicates the provisions of subsection 28.040(4)(B), and is, therefore, unnecessary.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comment and will delete the paragraph.

COMMENT #4: In its written comments, AT&T objects to section 28.040(5), which requires telecommunications companies to notify the commission of any major service outage and describes detailed information that such companies must submit about such outages. AT&T argues there is no need for such a rule, as the commission no longer has authority to deal with such outages. At the hearing, Staff announced compromise language, to which AT&T agreed.

RESPONSE AND EXPLANATION OF CHANGE: The compromise language appropriately recognizes the commission's limited need to be informed about service outages. The commission will modify the section to adopt the compromise language.

COMMENT #5: In its written comments, AT&T objects to section 28.040(6), which requires telecommunications companies to file a disaster recovery plan with the commission. AT&T argues there is no need for such a rule, as the commission no longer has authority in that area. At the hearing, Staff announced compromise language, to which AT&T agreed.

RESPONSE AND EXPLANATION OF CHANGE: The compromise language appropriately recognizes the commission's authority in this area. The commission will modify the section to adopt the compromise language.

COMMENT #6: AT&T objects to section 28.040(7), which requires companies to notify the commission if they file for bankruptcy. It argues there is no need for such a rule because the commission no longer has authority in that area. Staff replied to that comment by explaining that the bankruptcy notification requirement described in the rule is needed to allow Staff to manage the process by which it collects required financial assessments from companies. Staff says the requirement should not be burdensome on the companies and should be retained.

RESPONSE: The commission believes Staff has adequately explained the need to require notification when a company has filed for bankruptcy. The commission will not make the change requested by AT&T.

4 CSR 240-28.040 Reporting Requirements

(2) Annual Report. A company certificated to provide telecommunications service or registered to provide IVolP service shall submit an annual report to the commission. A company providing shared tenant services or payphone services is not required to submit an annual report. Annual report requirements are listed below:

(B) The deadline for a company to submit a completed annual report is April 15.

1. A company that is unable to meet the April 15 submission date deadline may request an extension of this deadline by filing a letter through EFIS. The letter shall include an explanation for failing to meet the deadline and the date by which the annual report will be filed.

A. If a request for extension is made prior to the filing deadline, a thirty-(30-) day extension will automatically be granted.

B. Requests for an extension greater than 30 days or requests after the filing deadline for an extension will be handled on a case-by-case basis depending on the explanation contained in the request.

2. A company that misses the filing deadline and has not requested an extension shall be considered delinquent and appropriate actions may be pursued;

(3) Statement of Revenue Report. All IVolP providers and companies certificated to provide telecommunications services, including payphone providers and shared tenant service providers, shall submit a Statement of Revenue. Statement of Revenue requirements are listed below:

(A) All companies shall use the statement of revenue report form provided by the commission on the commission's website.

1. A Notary Public shall witness and sign the form;

(4) Net Jurisdictional Revenue Report. A company certificated to provide telecommunications service or registered to provide IVolP service shall submit a net jurisdictional revenue report to the Missouri universal service fund administrator. This report requires a company to identify its net jurisdictional revenue as that term is defined in this chapter. Listed below are clarifications about net jurisdictional revenue and the net jurisdictional report:

(C) A company applying a bundled rate for a telecommunications or IVolP service with a package of services that are not considered to be telecommunications or IVolP services may report net jurisdictional revenue by applying either of the following two (2) methods:

1. Report revenue based on the unbundled service offering price for telecommunications or IVolP service; or

2. Elect to report all bundled revenues as net jurisdictional revenue.

(5) A telecommunications company shall support the commission in its role with the State Emergency Management Agency by reporting the status of the company's telecommunications services when requested.

(6) A telecommunications company shall maintain a disaster recovery plan and shall make such plan available to the commission's staff upon request. Each telecommunications company shall provide the manager of the commission's telecommunications unit updated commission contact information for emergency response or disaster recovery efforts.