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Subject: Proposed ETC Rule Amendment
Attachments: Draft annual certification DED.doc

The Commissioners are considering the attached rulemaking amendment that expands certain annual certification requirements to ILECs and also clarifies the Commission's ability to decline to recertify an ETC. Staff will be holding a workshop on Monday June 11, from 9:30am until 2pm (as needed) in Room 315 of the Governor Office Building to discuss the amendment. The main focus of the workshop will be to get an understanding of current ILEC reporting/accountability requirements and how to effectively apply those requirements to the Missouri certification process; however, we will discuss any aspects of the amendment that raise questions, comments or concerns.

Seating is limited, so an RSVP is appreciated. Because of the complexity of the discussion, there are no plans to have teleconferencing capabilities available at this time. Let me know if you have any questions. Thanks, Natelle

<<Draft annual certification DED.doc>>

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EXHIBIT 1

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

Proposed Amendment

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

PURPOSE: This proposed amendment modifies existing annual USF certification submissions to include incumbent local exchange carriers in existing requirements and to outline the commission's authority to deny annual certification.

(4) Annual Filing Requirements for ETCs.

(A) All ETCs, including incumbent local exchange telecommunications carriers (ILEC) that receive federal high-cost support, shall, by August 15 of each year, submit:

1. *[a]* An affidavit executed by an officer of the company attesting that

A. *[f]* Federal high-cost support is used consistent with the commission's rules and the Telecommunications Act of 1996~~[.]~~; and

B. All accompanying information, including descriptions of costs, are true to the best of the knowledge and belief of the officer.

2. *[The affidavit will be accompanied by d]* Documentation of support received and costs incurred~~[.]~~; and

[The commission or its staff may request additional information regarding the annual certification. Questions regarding the appropriate documentation for ETCs should be directed to the commission's Telecommunications Department.

(B) ETCs seeking certification by October 1 of each year shall, no later than June 15 of each year, set up a meeting with the Telecommunications Department staff and the Office of the Public Counsel to review and discuss the ETC's proposal for the two (2)-year improvement plan. The meeting shall include a discussion of the proposed plan and any changes to the plan that would improve coverage, service quality or capacity in unserved or underserved areas in the Missouri service area in which ETC designation was granted.]

*[1]*3. A two (2)-year improvement plan, which shall include progress updates on any previously submitted plan and shall address all of the separate components set forth in (2)(A)2 and (2)(A)3 above.

A. For competitive ETCs, *[T]*the two (2)-year improvement plan shall include, with specificity, proposed improvements or upgrades to the carrier's network to be completed in the current year and to be completed in the following year. (For instance, the plan submitted on August 15, 2007 will include proposed improvements or upgrades to the carrier's network completed to date in 2007, to be completed for the remaining months of 2007 and to be completed in 2008.) The improvements or upgrades shall be described on a wire center-by-wire center basis throughout its proposed designated service area. *[and address all of the separate components addressed in the initial plan, set forth in (2)(A)2. above.]*

B. For ILECs, the two (2) year improvement plan shall include, with specificity, proposed improvements or upgrades to the carrier's network that were completed two years prior to the applicable funding year and improvements or upgrades to be completed during that funding year. (For instance, the October 1, 2007 certification applies to funding year 2008. The two year plan will include improvements or upgrades completed in 2006 and plans for improvements or upgrades for 2008. The October 1, 2008 certification applies to funding year 2009. The two year plan, which is a rolling plan, will include improvements or upgrades completed in 2007 and plans for improvements or upgrades for 2009.) The improvements or upgrades shall be described on a wire center-by-wire center basis throughout the ILEC's designated service area.

[2]4. Reports on unfilled service requests and customer complaints for the previous year and how the two (2)-year improvement plan may address such requests and complaints.

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

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

A. Quality and rates—quality services should be available at just, reasonable, and affordable rates;

B. Access to advanced services—access to advanced telecommunications and information services should be provided in all regions of the state;

C. Access in rural and high-cost areas—consumers in all regions of Missouri, including those in rural, insular and high-cost areas will have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.

(D/C) All ETCs, including ILECs, shall submit a demonstration that high-cost support was used to improve coverage, service quality or capacity in the Missouri service area in which ETC designation was granted.

(D) [and that such] A base line shall be established for each ETC, including ILECs. The base line shall represent an estimate of the expenses the ETC would normally incur. All ETCs, including ILECS, shall submit a demonstration that high-cost support was used in addition to any expenses the ETC would normally incur by demonstrating that expenditures exceed(ed) the ETC's established base line.

1. If the additional expenditures for a given reporting year do not exceed the established base line, the ETC shall submit a statement explaining any shortfalls.

A. For average schedule ILECs, the base line shall be a two (2)-year average of National Exchange Carrier Association (NECA) expenditures.

B. For ILECs that are cost companies and ETCs designated prior to August 2006, the base line shall be a two (2)-year average of the expenditures submitted on the 2005 and 2006 USF certification submission less USF receipts for those years.

C. For ETCs designated after August 2006, the base line shall be a two (2)-year average of the estimated expenses submitted in the ETC's designation case.

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

(F) All ETCs, including LECS, shall submit a report of complaints from consumers in the Missouri service area in which ETC designation was granted that have been submitted to or filed with the Federal Communications Commission in the previous twelve (12) months for which the company has knowledge. Such report shall include, at a minimum: a description of the complaint; the date the complaint was filed; the date the complaint was resolved; the resolution of the complaint and the amount of refund or credit, if any. If the commission finds the ETC's resolution of complaints is not satisfactory or if a particular type of complaint is recurring without being satisfactorily addressed, then the commission may decline to certify the ETC during the annual certification process.

(G) The commission or its staff may request additional information regarding the annual certification.

(H) Questions regarding the appropriate documentation for ETCs should be directed to the commission's Telecommunications Department.

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

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

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(I/K) All reports required to be submitted to the commission shall be attested to by an officer or authorized agent of the ETC or incumbent local exchange telecommunications carrier.

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

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

(L/N) All ETCs, including ILECs, or carriers requesting ETC designation, shall promptly furnish requested information, including financial information, related to its designation as an ETC to the commission, its staff or the Office of the Public Counsel.

(O) The commission may refuse to certify any ETC, including incumbent local exchange telecommunications carriers, if not satisfied with the ETCs annual filing submission, including but not limited to the two-year plan or when expenses do not exceed the established base line as required by subsection D above.

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AUTHORITY: sections 386.040, 386.250, 392.451 and 392.470, RSMo 2000. Original rule filed Oct. 31, 2005, effective June 30, 2006.*

**Original authority: 386.040, RSMo 1939; 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996; 392.451, RSMo 1996; and 392.470, RSMo 1987.*

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 not cost private entities more than five hundred dollars (\$500) in the aggregate.