

MoPSC feedback for proposed 4 CSR 240-31.130(3)¹

At the workshop the MoPSC Staff was requested to provide the rationale or explain what the MoPSC Staff intends to do with the information for each item contained within the proposed section identifying annual filing requirements for ETCs. Generally, the information is requested to ensure compliance with requirements designed to reduce waste, fraud and abuse of the state and federal universal service funds. In addition, the Commission is required to annual certify providers are using the high cost universal service funds for the purpose intended, so documentation is needed before the Commission can provide such certification. Finally, the Staff committed to the Commission that there would also be an annual certification process, much like the process for high cost funds, for providers of Lifeline service. More specifically, to try and be responsive to this request for individual items, listed below is the MoPSC Staff's responses:

(3) Annual Filing Requirements for ETCs.

(A) Any ETC and reseller without ETC classification who are participating in the Lifeline and/or Disabled programs shall submit an annual filing by April 1 of each year to the commission's Electronic Filing and Information System containing the following information:

1. An officer of the company shall certify under penalty of perjury:

A. The company complies with each of the annual certification requirements identified in 47 CFR 54.416(a);

B. The company complies with all Missouri Lifeline and Disabled program procedures as identified in 4 CSR 240-31.120;

C. The company is using a Lifeline and/or Disabled application form approved by the Missouri USF board;

D. The company complies with all requirements associated with the National Lifeline Accountability Database as identified in 47 CFR 54.404;

E. The company's Lifeline service continues to meet the criteria set forth in 47 CFR 54.401;

F. For any company not assessing or collecting a monthly fee from its Lifeline subscribers the company shall certify compliance with the service activation and service de-enrollment requirements identified in 47 CFR 54.407(c) and 47 CFR 54.05(e)(3), respectively; and

G. The company's Missouri operations solely use the name of the company as recognized by the commission for ETC designation in all marketing and other USF-related materials including filings with the FUSFA and the FCC;

H. A statement indicating whether the company offers access to interexchange services, directory assistance services and operator services.

2. A copy of the annual report required by 47 CFR 54.422;

3. The results of the company's re-certification efforts of existing Lifeline subscribers as required by 47 CFR 54.416(b);

4. For each month within the last twelve months the company's Missouri Lifeline and Disabled subscribership quantities:

A. Total Lifeline and Disabled subscribers;

Comment [v1]: The MoPSC Staff is essentially looking for a one-page affidavit whereby a company's officer certifies compliance with these requirements. The MoPSC assumes any company should be able to easily and readily provide such an affidavit. Failure of a company to provide a statement confirming compliance raises a red flag for the MoPSC to further investigate.

Comment [v2]: This statement within the affidavit simply attempts to verify whether the company continues to offer access to these services.

Comment [v3]: ETCs receiving low-income support are required by the cited FCC rule to provide a copy of this annual report to the state commission and USAC. The MoPSC Staff will be looking at this information for completeness as well as whether the MoPSC should further investigate issues related to the company's name, outages, complaints and/or Lifeline service plans.

Comment [v4]: ETCs are required by the cited FCC rule to provide a copy of their annual re-certification efforts to the state commission and USAC. The MoPSC Staff will be looking at this information to ensure an ETC is performing an annual re-certification of subscribers and whether the company's results appear reasonable. If not, the MoPSC may want to further investigate.

¹ This section was identified in the initial draft of the rulemaking as 4 CSR 240-31.130(4); however, after the workshop this section has been re-numbered as 4 CSR 240-31.130(3).

- B. New Lifeline and Disabled subscribers activated during the month;
- C. Existing Lifeline and Disabled subscribers de-enrolled during the month from the Lifeline or Disabled program based on the following criteria:
 - i. De-enrolled for non-usage of the Lifeline service;
 - ii. De-enrolled for failing to re-certify; and
 - iii. De-enrolled for other reasons;

5. A summary of any audits conducted within the past year. Such audits include the independent audits as contemplated by 47 CFR 54.420 and audits conducted by the FUSFA. If an audit identifies any non-compliance issue then the company shall provide the status of resolving the issue. The full and finalized audit report shall have already been previously submitted to the Manager of the commission's Telecommunications Unit as described in 4 CSR 240-3.570(3)(H) so the company shall provide the date the audit report was provided to the commission;

6. A list of any proceedings alleging the company is violating universal service fund requirements. This list shall consist of any formal proceeding in any jurisdiction that has either been initiated or completed within the past year. For each proceeding the company shall provide an accurate citation of the proceeding, the jurisdiction, and a brief description of the allegations along with the status of any finalized decisions regarding the proceeding by a regulatory agency or court;

7. If an ETC provides Lifeline discounted wholesale services to a reseller then the ETC shall identify the reseller.

(B) All ETCs receiving high-cost support shall submit, no later than April 1 of each year in order for an ETC to continue to receive high-cost support for the following calendar year, the following additional information with the company's annual filing to the commission's Electronic Filing and Information System:

1. An officer of the company shall certify under penalty of perjury:

A. All federal high-cost support provided to the company within Missouri was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended;

B. The company complies with applicable service quality standards and consumer protection rules. Wireless ETCs should also certify continued compliance with the latest edition of the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service; and

C. The company is able to function in emergency situations as contemplated by 47 CFR 54.202(a)(2).

2. A copy of the company's annual reporting information as required by 47 CFR 54.313.

3. A demonstration the company is providing acceptable voice telephony service including the timeliness of providing service and remedying out-of-service conditions.

4. Identify the applicable study area code(s) of the company's high-cost service area in Missouri.

(C) The commission's Electronic Filing and Information System will automatically block public access to an ETC's annual filing; however, an ETC may ensure confidentiality by classifying the filing as confidential. Confidential classification can be accomplished through procedures identified in 4 CSR 240-2.135.

Comment [v5]: The MoPSC Staff may want to further investigate any ETC who is primarily signing-up new subscribers and de-enrolls few, if any, Lifeline subscribers.

Comment [v6]: This information is expected to ensure the MoPSC Staff is aware of any relevant audit results. In addition if an audit reveals any non-compliance issues then the MoPSC wants to ensure such issues are being adequately addressed and resolved.

Comment [v7]: The MoPSC Staff wants to be aware of any proceeding involving non-compliance with universal service requirements. Such information will enable the MoPSC Staff to be aware of and monitor the proceeding.

Comment [v8]: Ensures the MoPSC Staff is aware of any reseller participating in the Lifeline program.

Comment [v9]: A state commission needs to provide such certification to the FCC/USAC per 54.314(a). Failure to provide this specific certification will prevent a high-cost recipient from becoming re-certified.

Comment [v10]: This information simply attempts to confirm the ETC continues to comply with certain service-related obligations made by an ETC when applying for ETC status.

Comment [v11]: This information is to be filed with the FCC, USAC and the relevant state commission. The MoPSC Staff intends to review it for completeness and to see how the high-cost recipient is using the funding in meeting certain expectations and requirements.

Comment [v12]: This information is attempting to supplement and support the company's certification in 1B above that the company complies with applicable service quality standards. The MoPSC Staff is simply looking for information on how a high-cost recipient is tracking two, basic quality of service components and the company's results of those tracking efforts.

Comment [v13]: This information is typically supplied within the MoPSC's annual certification letter to the FCC and USAC.