

the word "variances" at the end of section (1) be changed to "that variance." Second, the commenter suggested that the phrase "in compliance with 4 CSR 240-2.060" be moved to the end of the sentence.

RESPONSE AND EXPLANATION OF CHANGE: The Commission finds that the suggested grammatical changes should be made. Therefore, the Commission will amend sections (1) and (2) as recommended.

COMMENT: One written comment was received which suggested that section (3) be amended by adding the words "if applicable" at the end of the section. The commenter explains that not all variances granted by the Commission (e.g. extensions of time) will affect a company's tariff.

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees with the commenter. The Commission finds that some variances granted by the Commission are purely procedural and do not affect a company's tariff. Therefore, the Commission will amend section (3) to clarify that variances shall be reflected in the company's tariff only where applicable.

4 CSR 240-33.100 Variance

(1) Any telecommunications company or customer may request authority for a variance from any provision of this chapter and the commission may grant that variance.

(2) A variance request shall be filed in writing with the secretary of the commission in compliance with 4 CSR 240-2.060.

(3) Any variance granted by the commission shall be reflected in a tariff if applicable.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 33—Service and Billing Practices for Telephone Utilities

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.040, RSMo 1994, and 386.250 and 392.200, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-33.110 Commission Complaint Procedures is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2372). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: This rescission was proposed in conjunction with a replacement proposed rule. The comments received were directed to the proposed rule.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 33—Service and Billing Practices for Telecommunications Companies

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.040, RSMo 1994, and 386.250

and 392.200, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-33.110 Commission Complaint Procedures is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2372-2373). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Four written comments were received. One comment to this proposed rule was received at the public hearing held on November 15, 1999.

COMMENT: One written comment was filed in which the commenter stated that the telecommunications company that she represented had no objection to the proposed rule due to its similarity to the rule which is currently in effect.

RESPONSE: The Commission finds that no amendment to this rule is necessary as a result of this comment.

COMMENT: One written comment from a telecommunications company was filed in response to section (3). A representative for the same company made oral comments at the public hearing held on November 15, 1999. The commenter stated that the requirement that service continue pending the "resolution" of a complaint is problematic for the telecommunications company. The commenter stated that when an informal complaint is filed with the Commission there may not be an easily identified date by which the complaint is resolved. At the hearing the commenter suggested revised language for section (4) which would "anticipate frivolous disputes." The commenter stated that the telecommunications company that he represents is complying with the rule currently in effect which is very similar.

RESPONSE: The Commission finds that this rule is substantially similar to the rule currently in effect which was originally promulgated in 1977. The Commission received no other opposition to this rule and received one supportive comment to the rule from a separate telecommunications company. Therefore, the Commission determines that no change to the proposed rule is necessary as a result of this comment.

COMMENT: One general comment in support of this rule was filed which indicated that this rule was substantially similar to the current rule in effect.

RESPONSE: The Commission finds that no amendment to this rule is necessary as a result of this comment.

COMMENT: One written comment was filed with the Commission with regard to this proposed rule. The comment was very general as to the nature of competition and the focus of Chapter 33 of the Commission's rules. The comment was not specific to rule 33.110 and neither expressed support for or opposition to the rule.

RESPONSE: The Commission finds that no amendment to the proposed rule is necessary as a result of the comment.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 33—Service and Billing Practices for Telecommunications Companies

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.040, RSMo 1994, and 386.250

and 392.200, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-33.120 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2373-2375). The section with changes is reprinted here. The title of the proposed rule has been amended and is reprinted below. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Two written comments to this rule were received. No comments were received at the public hearing for this rule held on November 15, 1999.

COMMENT: One written comment was received that expressed general support for the proposed rule, however, the commenter stated that some amendment to the proposed rule was necessary. The commenter stated that "[i]f tariffs are to be required, the Commission should permit companies to protect their interests by including provisions that make the discount subject to the customer obtaining funds from the federal fund."

RESPONSE AND EXPLANATION OF CHANGE: The Commission finds that the discounted rates to eligible schools and libraries should be tariffed. The Commission interprets the comment as requesting that if tariffs are required, the rule should require intrastate discounts only be available if that customer is also receiving funds from the federal fund. It was the intent of the Commission to include this requirement in the rule as proposed. However, the Commission finds that the first sentence of section (2) should be restated in order to clarify this rule. Therefore, the Commission will amend the first sentence of section (2).

COMMENT: One written comment generally supported the rule as proposed. The commenter suggested, however, that the title of the rule be amended to accurately reflect the content of the rule.

RESPONSE AND EXPLANATION OF CHANGE: The Commission finds that no changes are necessary to the text of the rule as a result of the comment. The Commission finds that the title to the rule should be amended to accurately reflect that the subject matter of the rule is "discounts" rather than "deferrals."

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

(2) The intrastate discounts shall be available to the extent that the eligible schools and libraries also receive funds from the Federal Universal Service Fund and subject to the terms and conditions set forth in 47 CFR 54.500-54.517. Discounts on intrastate telecommunications services for eligible schools and libraries shall mirror the interstate discount as stated in the FCC Report and Order in CC Docket No. 96-45 (FCC 97-157), as adopted by the Missouri Public Service Commission in Docket No. TO-97-552. Any adjustments to the discount matrix shall be in accordance with the FCC's Report and Order in CC Docket No. 96-45 (FCC 97-157), paragraphs 538 and 542, or as adjusted in any future FCC decision or federal legislation on the subject.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 33—Service and Billing Practices for Telecommunications Companies

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.040, RSMo 1994, and 386.250

and 392.200, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-33.130 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2376). Those sections with changes are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Two written comments to this rule were received. A hearing to receive public comments to this rule was held on November 15, 1999. One witness made comments to this rule at the hearing.

COMMENT: One written comment was received in opposition to section (8). The commenter objected to the section because it "requires operator service providers to provide information on how to reach interexchange carriers." The commenter stated that operator service providers could not provide dialing instructions for all interexchange carriers and suggested that the section be amended to delete that requirement. The commenter supported the other sections of the rule.

RESPONSE AND EXPLANATION OF CHANGE: The proposed rule would require the operator service provider to "transfer calls to, or advise how to reach, other authorized interexchange carriers or the local exchange company. (emphasis added) Deleting the phrase "or advise how to reach" as suggested by the commenter, would actually make the rule more restrictive for the operator service provider. Even with the deletion, the rule would still require the operator service provider to transfer the call, but the option to provide dialing instructions would no longer be available. Therefore, the Commission finds that no amendment to this proposed rule is necessary as a result of this comment. The Commission has deleted the "s" from "carriers" in the last line of section (8) for grammatical purposes.

COMMENT: One general written comment was received in support of the rule as proposed. The commenter stated that the rule as proposed sets standards which were first applied in the Commission's Case No. TA-88-218. The commenter stated that most telecommunications companies in Missouri currently follow these rules and include this language in their existing tariffs. The commenter stated that the rules are not burdensome and provide both guidance to the industry and protection for customers.

RESPONSE: The Commission agrees with the commenter and finds that no changes to the proposed rule are required as a result of this comment.

COMMENT: One witness testified at the public hearing on this rule. The witness stated that to the best of his knowledge most telecommunications companies in Missouri have already incorporated the terms of this proposed rule in their tariffs currently in effect.

RESPONSE: The Commission finds that no changes are necessary as a result of this comment.

4 CSR 240-33.130 Operator Service

(8) Upon request, the operator service provider will transfer calls to, or advise how to reach, other authorized interexchange carriers or the local exchange company. This service will be provided if billing can list the caller's actual origination point and an agreement exists between the operator service provider and the interexchange carrier or local exchange company.