

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

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

**COMMENTS OF THE STAFF OF THE
MISSOURI PUBLIC SERVICE COMMISSION**

COMES NOW the Staff of the Missouri Public Commission (Staff), and, pursuant to the Notice to Submit Comments published in the *Missouri Register* on October 1, 2007, submits the following comments:

I. INTRODUCTION

In the October 1, 2007, edition of the *Missouri Register*, the Missouri Public Service Commission (Commission) published a proposed amendment to sections (4) and (5) of 4 CSR 240-3.570, *Requirements for Carrier Designation as Eligible Telecommunications Carriers* (ETC Rule). The purpose of the proposed amendment is to codify incumbent local exchange carrier (ILEC) annual Universal Service Fund (USF) certification requirements.

Before October 1 of each calendar year, the Commission is to provide a letter of certification to the federal Universal Service Administration Company (USAC) certifying that the carriers will use, or have used, the support as intended by the Telecommunications Act of 1996. This letter is necessary for Missouri telecommunications carriers to receive monies from the federal USF for the upcoming

funding year beginning January 1. The Telecommunication Department Staff of the Commission (Staff) currently gathers information from all ETCs in order to provide a basis for the letter of certification.

Staff supports the proposed amendment because it codifies existing procedures regarding the annual certification of ILECs. Furthermore, Staff supports the proposed amendment because it more closely promotes parity in the treatment of all ETCs, although the requirements are not identical for ILECs, alternate local exchange telecommunications companies, and commercial mobile radio service providers.

The remainder of Staff's comments focuses on specific sections of the proposed rulemaking.

II. COMMENTS

4 CSR 240-3.570(4)(A)

This subsection of the proposed amendment sets out that certain existing requirements currently only applicable to CLEC and wireless carriers will also be applied to ILECs, more closely promoting parity in the treatment of carriers.

Currently, Section 4 of the ETC Rule describes the annual filing requirements of alternate local exchange telecommunications companies (ALECs, sometimes also referred to as competitive local exchange carriers, or CLECs) and commercial mobile radio service providers (CMRS, or, more colloquially, wireless carriers). There is no current description of the annual filing process followed by incumbent local exchange carriers (ILECs) in the ETC Rule.

The Commission's website¹ describes the annual certification process currently followed by ILECs. In this process an ILEC submits:

1. A narrative description of allowable expenses incurred in the analysis year;
2. An updated total of the company's Lifeline and Link Up participating customers;
3. A description of outreach efforts for those Lifeline and Link Up.

These filing requirements are codified in the proposed amendment. Although the proposed amendment does not utilize a procedure identical to that required for different types of competitive ETCs, the proposed amendment promotes parity by implementing many of the same filing requirements for CLECs, wireless carriers, and ILECs. Specifically, all ETCs would be required to provide affidavits attesting that support received was used properly, accompanied by documentation of support received and costs incurred. Furthermore, this subsection codifies existing procedure by requiring all ETCs in non-rural areas of Missouri to submit information required by USAC. Therefore, Staff supports the amendment as proposed.

4 CSR 3.570(4)(B)2.

The proposed change to this paragraph acknowledges the difference between the funding mechanism for ILECs versus the mechanism for CLECs and wireless carriers designated as ETCs. As non-ILEC ETCs receive monies based on future expenses, this proposed change restructures the existing requirements to delineate the different filing

¹ <http://psc.mo.gov/telecommunications/industry-information/annual-usf-certification/annual-usf-certification>

requirements established for competitive ETCs and ILEC ETCs. Staff supports the proposed restructure to more clearly outline the certification process.

4 CSR 3.570(4)(C)

The proposed inclusion of this subsection will codify the existing annual USF certification process for ILECs. The framework for the current process of certifying ILECs has been in place since the Commission issued its Report and Order in Case No. TO-2002-347² on July 9, 2002, although the requirements have been modified since that time. Because this new subsection will codify the existing procedure which Staff has found effective, Staff supports the proposed amendment.

4 CSR 3.570(4)(B)4. and 4 CSR 3.570(4)(C)2.

The proposed amendments promote the wise use of scarce public resources while still meeting the goals of Universal Service. The requirement of companies to affirmatively state that the costs they incur “are no greater than necessary,” as included in the proposed amendment, promotes fiscal discipline and a wise use of public monies.

The Commission filed comments regarding concerns about the efficacy of the certification processes regarding the USF in WC Docket No. 05-337. In comments to the FCC regarding the USF, the Commission stated:

Finally, efforts for reform should include a more refined and standardized annual certification process and should include strict oversight to ensure compliance.

Staff supports this section as proposed.

² *In the Matter of the Investigation into Certification for Federal Universal Service Funds*

4 CSR 240-3.570(5)

This section of the proposed amendment eliminates a requirement that was mandated to be completed by August 15, 2006.

Remaining language in this section was moved for consistency purposes. The language requires non-ILEC ETCs to keep all records in an organized manner, and to have those records related to USF certification available for Commission inspection. Additionally, Subsection (H) requires the non-ILEC ETCs to keep these records for at least two years. Previously, the language appeared in the annual certification section of the rule. Staff believes it is more appropriate to place this language with the “other” requirements.

WHEREFORE, the Staff of the Missouri Public Service Commission respectfully submits these comments on the proposed rule.

Respectfully submitted,

/s/ Sarah Kliethermes
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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record this 30th day of October, 2007.

/s/ Sarah Kliethermes

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AFFIDAVIT OF Adam C. McKinnie

STATE OF MISSOURI)
) ss:
COUNTY OF COLE)

Adam C. McKinnie, employee of the Missouri Public Service Commission, being of lawful age and after being duly sworn, states that he has participated in preparing the accompanying comments, and that the facts therein are true and correct to the best of his knowledge and belief.

Adam C. McKinnie

Adam C. McKinnie

Subscribed and affirmed before me this 30th day of October 2007
I am commissioned as a notary public within the County of Callaway,
State of Missouri and my commission expires on 9-21-10



SUSAN L. SUNDERMEYER
My Commission Expires
September 21, 2010
Callaway County
Commission #06942066

Susan L. Sundermeyer

NOTARY PUBLIC