

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

In the Matter of a Repository Docket in which to)	
Receive Feedback and Other Suggestions)	
Concerning Staff's Proposed Consolidation and)	File No. TW-2014-0295
Simplification of the Commission's)	
Telecommunications Rules)	

SUBMISSION OF DOCUMENTS

COMES NOW the Staff of the Missouri Public Service Commission and submits the following documents:

1. A summary of the feedback the Staff has received, and the Staff's preliminary responses.
2. The workshop agenda. PLEASE NOTE: Contrary to the Staff's prior notice, there will be a call-in number posted on the Commission's web site prior to the workshop, at least 24 hours in advance.
3. A timeline of the rulemaking process.

WHEREFORE, the Staff submits these documents.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 24th day of June, 2014.

A handwritten signature in black ink, appearing to be "Allan" followed by a stylized flourish.

Feedback Received in Case No. TW-2014-0295

The portions of the proposed rulemaking highlighted in yellow reflect areas of the draft rule receiving specific feedback.

Proposal to Rescind Various Rules
<p>MTIA and AT&T: Should also rescind expanded calling rules (2.061).</p> <p><i>Staff:</i> Agree this rule should be rescinded; however, Staff may be unable to rescind this rule in this rulemaking. The MoPSC judges solely initiate Chapter 2 rulemaking proposals. The idea of rescinding this rule has been forwarded on to Morris Woodruff chief regulatory law judge.</p>
<p>MTIA and AT&T: Should also rescind slamming rules (33.150).</p> <p><i>Staff:</i> Agree this rule should be rescinded. See additional Staff comment below. MTIA and AT&T also recommend the proposed slamming rule in 4 CSR 240-28.060(5) be deleted. See Staff's subsequent response to this proposal.</p>
<p>MTIA: Should also rescind payphone application rules (3.505).</p> <p><i>Staff:</i> Agree this rule should be rescinded. See additional Staff comment below. Staff is proposing payphone application rules be updated and moved into proposed 4 CSR 240-28.030(5).</p> <p>Additional Staff Comment: Staff's Motion to Open A Repository Docket attempts to separately identify rules to be substantively eliminated as well as identify rules to be moved into proposed Chapter 28. Perhaps a more simple way to describe Staff's proposal is all telecommunications-related rules in Chapter 3, 30, 32, and 33 should be rescinded.</p>

Feedback for Additional Rule Adjustments
<p>AT&T: Should move 33.100 (variance rules) and 33.110 (complaint procedures) to Chapter 28. A variance provision is useful from a substantive and operational perspective. AT&T suggests moving the variance provisions in 4 CSR 240-33.100 and the complaint procedure provisions in 4 CSR 240-33.110 to the proposed Chapter 28.</p>

Staff: Agree the proposed rule should contain a variance provision. Rather than create a new rule within Chapter 28 a variance provision has been inserted in the General Provisions portion of Chapter 28; specifically 4 CSR 240-28.020(6). The wording is developed from reviewing the variance provisions in 4 CSR 240-33.100 and 4 CSR 240-31.040(7).

Unclear what AT&T is proposing for complaint procedure rules.

**Rules of
Department of Economic Development
Division 240 – Public Service Commission
Chapter 28 –Telecommunications, I-VoIP, Video Services**

28.010 Definitions
Comments
<p>Verizon and/or MCTA: The proposed definitions for the following terms improperly and illogically includes or infers services provided by IVoIP providers:</p> <ul style="list-style-type: none"> • Access line • Interexchange telecommunications service • Intrastate • Local exchange service • Switched access service • Telecommunications service <p>Staff:</p> <ul style="list-style-type: none"> • <i>Fail to understand the concern regarding the proposed definition for “Access line”. This term is used in two places within this rulemaking: 28.050(3) and 28.060(3). Proposed rule 28.050(3) pertains to the Relay Missouri assessment which is applicable to IVoIP providers. Proposed rule 28.060(3) pertains to quality of service metrics but this rule clearly indicates it solely applies to telecommunications companies. Consequently Staff fails to understand the concern.</i> • <i>Agree. The definition for interexchange telecommunication service should not reference IVoIP. For reasons explained in</i>

response to MTIA's comments Staff will delete this definition.

- *Fail to understand the concern regarding the proposed definition for "Intrastate". The term "intrastate" is used in sections of proposed Chapter 28 primarily pertaining to revenue reporting. IVoIP providers are subject to reporting intrastate revenues to the MoPSC. Consequently Staff fails to understand the concern.*
- *Agree. The definition for "Local exchange service" should not reference IVoIP. For reasons explained in response to MTIA's comments Staff will delete this definition.*
- *The term "Switched access service" is only used once in this rulemaking (28.070(1)). Upon further consideration Staff will delete the proposed definition.*

MTIA: The proposed definitions for the following terms differ from existing MoPSC rules:

- Access line
- Net jurisdictional revenue

Staff:

- *MTIA correctly points out the proposed definition for "Access line" is already defined in three different places in the MoPSC rules. The three existing definitions differ and are being recommended for rescinding in this rulemaking. Staff is open to revising the proposed definition but unclear if concerns exist or whether the comment is simply pointing out the lack of consistency in defining this term in existing MoPSC rules.*
- *Agree the term "net jurisdictional revenue" is already defined in another MoPSC rule. Given the importance for parties to understand this term and some parties may not readily grasp the applicability of Chapter 31 rules Staff prefers to maintain a proposed definition in this rulemaking but will revise the proposed definition to simply refer to 4 CSR 240-31.010(17).*

MTIA: The proposed definitions for the following terms differ from Missouri statutory definitions:

- Basic local telecommunications service
- Exchange
- Interexchange telecommunications service

Staff: *In Staff's opinion the statutory definitions are not very clear and in some respects might be considered outdated. Nevertheless Staff does not want to create the impression of conflicting with Missouri statutes. Unless parties prefer otherwise Staff will simply strike these proposed definitions from the rulemaking. In addition Staff will strike the following additional definitions which are also defined in Missouri statutes:*

- *Telecommunications service*
- *Interconnected Voice over Internet Protocol service*

Staff proposes to add an additional sentence to the purpose of this rule by stating additional terms used in this chapter are defined in 386.020 RSMo.

4 CSR 240-28.010 Definitions

PURPOSE: *This rule defines various terms used in this chapter, which - Additional terms used in this chapter are not defined in 386.020 RSMo.*

(1) Access line: A line used to provide basic local telecommunications service or IVoIP service.

(2) Basic local telecommunications service: Two-way switched voice service within an exchange, which also provides access to the following services: 911 services established by local authorities, operator services, and directory assistance services.

(32) Commission: The Missouri Public Service Commission.

(43) EFIS: The Commission's Electronic Filing and Information System. EFIS is a system allowing the electronic exchange of Commission filings. The system also maintains certain information about each company registered or certificated by the Commission. EFIS may be accessed through the Commission's web site at www.psc.mo.gov.

(5) Exchange: A geographic area established and approved by the Commission for the administration of Local Exchange Service described by the tariff of a telecommunications company providing basic local telecommunications service.

(64) Detariff: To discontinue using a tariff to describe a company's rates, terms and conditions of service.

(75) Information and Referral (I&R) service: A service used to provide community and referral information. As used in this chapter, this term is associated with an arrangement whereby callers can access I&R service by dialing "211".

(8) Interconnected Voice over Internet Protocol (IVoIP) service: A service meeting the following four criteria:

- (A) Enables real time, two-way voice communications;
- (B) Requires a broadband connection from the user's location;
- (C) Requires Internet protocol-compatible customer premises equipment;
- and
- (D) Permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.

(96) Interconnection agreement : A document filed with a state commission as contemplated by 47 U.S.C. 252 containing the terms, conditions, and rates associated with interconnection services.

(107) Interconnection services: Services associated with the duties and obligations placed on telecommunications carriers as contemplated by 47 U.S.C. 251.

(11) Interexchange telecommunications service: Two-way switched voice telecommunications or IVoIP service between exchanges regardless of how the service is routed.

(128) Intrastate: A telecommunications or IVoIP service originating and terminating within Missouri regardless of how the service is routed.

(13) Local exchange service: A telecommunications or IVoIP service between points within an exchange regardless of how the service is routed.

(149) Net Jurisdictional Revenue: This term is defined in 4 CSR 240-31.010(17). Retail revenue resulting from the provision of intrastate telecommunications and IVoIP services, excluding retail uncollectible revenues. Net jurisdictional revenue is annually reported and is used for the Missouri Universal Service Fund assessment.

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(150) Non-switched local exchange telecommunications service: Facilities solely dedicated to connecting a customer's locations within an exchange, which does not traverse the local public switched network.

(161) Payphone service: Service providing two-way voice service for a fee to the general public using a privately owned device.

(172) Shared tenant service: Generally the provisioning of a commercially shared telecommunications service provided to residents in a building or a common limited geographic area.

(183) Switched access service: A wholesale service that enables the origination or termination of interexchange telecommunication service. The service is provided to an interexchange company by a basic local telecommunications service provider or IVoIP provider.

(194) Tariff: A document identifying the telecommunications services offered by a company and also identifying the rates, terms and conditions for the use of such services.

(20) Telecommunications service: For purposes of this chapter, the provisioning of basic local telecommunications service, non-switched local telecommunications service or interexchange telecommunications service provided through wireline facilities.

(1524) Total Missouri Jurisdictional Operating Revenue: A company's total revenue associated with the provisioning of intrastate telecommunications and IVoIP services. This revenue includes a company's net jurisdictional revenue,

wholesale revenues and any revenue received from the Missouri Universal Service Fund minus wholesale uncollectibles. Total Missouri jurisdictional operating revenue is annually reported and is used for the Commission assessment.

(2216) Video service: For purposes of this chapter, video programming provided through wireline facilities as part of a tier, on demand or a per channel basis.

28.020 General Provisions	
Section	Comments
(1)	<p>MCTA: Use of the term “authorized” suggests the MoPSC has authority beyond its limited authority to register IVoIP providers.</p> <p>Staff: <i>Staff does not interpret the rule’s wording in this way. Nevertheless Staff has replaced the term with “certificated or registered”.</i></p>
(1)	<p>Additional Staff Comment: <i>Staff is proposing to insert an additional sentence to Section 1. The sentence attempts to address a confusing arrangement that has occurred on numerous occasions. The confusion centers on arrangements involving two separate companies whereby a certificated or registered company accepts the regulatory responsibility for providing the service but general public perception is the service is provided solely by the unauthorized company.</i></p>
(6)	<p>Additional Staff Comment: <i>This section has been added as previously described in Staff’s response to AT&T’s suggestion to add a waiver or variance provision to these rules.</i></p>

4 CSR 240-28.020 General Provisions

PURPOSE: *This rule describes the general requirements applicable to providers of telecommunications, IVoIP, video, payphone, and shared tenant services in Missouri. Additional, specific requirements are identified in other Chapters.*

(1) Any company offering intrastate telecommunications service, IVoIP service, payphone service or shared tenant service shall be certificated ~~authorized or~~ registered by the Commission prior to offering or selling such service in Missouri.

A company without such authorization may offer services provided by a certificated or registered company only if all marketing, website and billing information clearly indicates the service is provided by the certificated or registered company.

(2) A company may seek video service authorization from the Commission.

(3) All companies receiving authorization from the Commission shall maintain updated contact information. Any company with telecommunications or IVoIP service authorization is subject to additional reporting requirements.

(4) Any company offering intrastate telecommunications service may maintain a tariff with the Commission for the provision of retail telecommunications services or may publish the rates, terms and conditions of such services on a publicly-accessible web site. A company providing payphone or shared tenant services is not subject to any tariff requirements.

(5) Interconnection agreements shall be filed with and approved by the Commission as a condition of effectiveness of the agreements.

(6) The Commission may grant a waiver or variance from any provision of this chapter for good cause, upon request or upon its own motion. A party wishing to obtain a waiver or variance shall file an application with the Commission setting out the reason for its request. An application for a waiver shall comply with the application requirements in 4 CSR 240-2.060.

28.030 Authorization Requirements	
Section	Comments
(1)	MCTA: Use of the term “authorization” suggests the MoPSC has authority beyond its limited authority to register IVoIP providers. Staff: <i>Staff does not interpret the rule’s wording in this way. Nevertheless Staff is open to considering alternative wording if proposed.</i>
(8)	MCTA: Notice of name changes may be justified for IVoIP providers; however, Missouri law does not authorize the MoPSC to impose an “advance” notice requirement.

<i>Staff: Agree to modify the rule accordingly for all companies so that notice is provided on or before the effective date of the name change.</i>
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4 CSR 240-28.030 Authorization Requirements

PURPOSE: This rule identifies filing requirements for a certificate of service authority to provide telecommunications services or registration to provide IVoIP service or video service.

(1) The Commission grants the following forms of **authorization** or [registration](#):

- (A) Certificate of service authority to provide basic local telecommunications service.
- (B) Certificate of service authority to provide non-switched local telecommunications service.
- (C) Certificate of service authority to provide interexchange telecommunications service.
- (D) Certificate of service authority to provide payphone service.
- (E) Certificate of service authority to provide shared tenant services.
- (F) Registration to provide IVoIP service.**
- (G) Registration to provide video service.

A company may be granted one or all of these authorizations [or registrations](#), in a single application or in multiple applications.

(2) Applications for authorization [or registration](#) shall be electronically filed as a new case submission in EFIS. Please refer to EFIS's Help section for assistance in determining the specific filing designation.

(3) An application to provide basic local telecommunications service, non-switched local telecommunications service, interexchange telecommunications service and IVoIP service shall include the following requirements:

- (A) The following basic information about the applicant:
 - 1. The applicant's legal name;
 - 2. The location of the applicant's principal place of business;
 - 3. The type of organization of the applicant (Missouri corporation, foreign corporation, partnership, proprietorship, other); and
 - 4. Jurisdiction where organized.

(B) The applicant's proposed service area identified by telephone exchange.

(C) A notarized affidavit signed by an officer or an authorized representative providing the following information:

1. A statement the application accurately reflects the proposed service area;
2. The names of the principal executive officers of the applicant;
3. A statement the applicant is legally, financially, and technically qualified to provide the service;
4. A statement the applicant will comply with all applicable state and federal laws and regulations imposed upon providers of the service;
5. A statement indicating the company's contact information within the Commission's EFIS is current and will be updated in a timely manner;
6. A statement the applicant will comply with applicable assessments and taxes;
7. A statement the applicant will comply with annual reporting requirements established by the Commission;
8. A statement the applicant has established a process for handling inquiries from customers concerning billing issues, service issues, and other consumer-related complaints. This statement shall also explain where to direct consumer complaints; and
9. A statement the applicant's service meets the criteria for the requested service.

(D) The application shall be submitted and signed by an attorney licensed to practice law in Missouri.

(E) An application for basic local telecommunications service shall include a statement indicating whether the applicant intends to file a tariff with the Commission or maintain a web site identifying rates provided to residential or business retail end user customers. If an applicant intends to maintain a web site then the application shall identify the web site address. A tariff shall be filed for wholesale telecommunications services; tariffing requirements and options are described in 4 CSR 240-28.080.

(4) An application to provide video service shall include the following requirements:

(A) Basic information about the applicant:

1. The applicant's legal name; and
2. The location of the applicant's principal place of business.

(B) The applicant's proposed service area identified by political subdivision along with the franchise fee, if any, applied by the political subdivision.

(C) A notarized affidavit signed by an officer or an authorized representative providing the following information:

1. A statement the application accurately reflects the proposed service area and applicable franchise fees;
2. The names of the principal executive officers of the applicant;
3. A statement the applicant is legally, financially, and technically qualified to provide the service;
4. A statement the applicant will comply with all applicable state and federal laws and regulations imposed upon providers of the service;
5. A statement indicating the company's contact information within EFIS is current and will be updated in a timely manner;
6. A statement that the applicant has filed or will timely file with the Federal Communications Commission all forms required by that agency for offering video service; and
7. A statement that the applicant will comply with all applicable regulations concerning use of the public right-of-ways as provided in 67.1830 to 67.1846 RSMo 2000.

(D) The application shall be submitted and signed by an attorney licensed to practice law in Missouri.

(5) An application to provide payphone service or shared tenant service shall include the following requirements:

(A) Basic information about the applicant:

1. The applicant's legal name; and
2. The location of the applicant's principal place of business.

(B) A statement indicating the company's contact information within the EFIS is current and will be updated in a timely manner.

(C) A statement the applicant agrees to comply with all applicable federal and state laws and regulations.

(E) A statement that the applicant agrees to provide a complete list of served locations at the Commission's request.

(F) Information about the proposed service locations:

1. The number of locations to be served;
2. The street address of the location(s) to be served; and
3. The description of the premises to be served (hospital, offices, etc.)

(G) The application shall be submitted and signed by an attorney licensed to practice law in Missouri.

(6) An existing authorized provider may change its service area by filing a Notice of Change application.

(A) This application shall contain all of the same information required for the initial application with the following adjustments:

1. The provider shall indicate the date and case number(s) associated with the provider's initial authorization; and
2. A description as to how the applicant's proposed service area will change. Video service providers adding political subdivisions shall include the franchise fee applied by the political subdivision.

(B) A Notice of Change application shall be submitted and signed by an attorney licensed to practice law in Missouri.

(C) Payphone providers are not required to submit a Notice of Change application.

(7) Commission authorization shall not be transferrable. Transactions involving the sale, merger or consolidation of a company with existing authorization does not require Commission approval. The notice requirements identified in Sections (8) and (9) of this rule shall apply if a transaction results in a name change for the company with existing authorization or if a transaction results in the cancellation of a company's existing authorization.

(8) All companies with authorization to provide IVoIP service, video service or any form of telecommunications service including shared tenant service or payphone service shall provide **advance**-notice to the Commission of any name changes. Notice shall be provided to the Commission on or before the effective date of the name change. Although such notification does not seek approval, but rather provides notice to the Commission, a name change is not effective at the Commission until such formal notice is given. Name change notification requirements are listed below:

(A) The company shall submit to the Commission a letter containing the following information:

1. A statement clearly setting out the old name and new name of the company;
2. Evidence the new name has been registered with the Missouri of Secretary of State;
3. A statement indicating if existing customers have been or will be notified about the company's new name; and
4. A statement that the company has reviewed and if necessary updated the company's contacts as listed in EFIS.

(B) The letter can be signed by a company official and does not need to be signed or filed by an attorney.

(C) The letter shall be electronically filed as a new case submission in the EFIS.

(D) If a telecommunications company changes its name and maintains a tariff then in addition to the notification requirements in Subsection (A) the company shall:

1. File a new tariff reflecting the new name of the company and cancel the existing tariff; or,
2. File a one-page Adoption Notice and a revised title page to the existing tariff. The Adoption Notice shall substantially contain the following language: “The (new name of company) hereby adopts, ratifies, and makes its own, in every respect as if the same had been originally filed by it, all tariffs filed with the Public Service Commission, State of Missouri by the (name of old company) prior to (date).”

(9) Notice shall be provided to the Commission to cancel authorization(s) previously granted by the Commission. Such notice shall comply with the following requirements:

(A) The company shall submit written notice to the Commission a letter containing the following information:

1. A statement requesting cancellation of a company’s authorization and citing the specific certificates of service authority and/or registrations; and
2. If the company also has a currently effective tariff then the letter shall also request cancellation of the company’s tariff.

(B) The letter can be signed by a company official and does not need to be signed or filed by an attorney.

(C) The letter shall be electronically filed in EFIS.

28.040 Reporting Requirements	
Section	Comments
(2)(A)	Verizon: Exceeds MoPSC’s authority. MCTA: Might be read to imply the annual report form would be the same for IVoIP providers as telecommunications companies. The same form should not necessarily be used for both providers given the limitations in Section 392.550.3(7).

	<i>Staff: Fail to understand the concern. IVoIP providers must file an annual report. The same annual report form is already used by IVoIP providers, ILECs, CLECs and IXC.</i>
(3)	<p>MCTA: Might be read to imply the Statement of Revenue form would be the same for IVoIP providers as telecommunications companies. The same form should not necessarily be used for both providers given the limitations in Section 392.550.3(7).</p> <p><i>Staff: Fail to understand the concern. The same Statement of Revenue form is already used by IVoIP providers, ILECs, CLECs and IXC.</i></p>
(4)	<p>MCTA: MoPSC lacks authority to impose outage notification requirements on IVoIP providers.</p> <p><i>Staff: The proposed rule does not indicate IVoIP providers must comply with this requirement. Thus fail to understand this concern.</i></p>
(5)	<p>Verizon: MoPSC lacks authority to require IVoIP providers to file disaster recovery plans.</p> <p><i>Staff: Agree. The proposed rule has deleted the reference to IVoIP providers.</i></p>
	<i>Additional Staff Comments: Corrected rule numbering issue.</i>

4 CSR 240-28.040 Reporting Requirements

***PURPOSE:** This rule identifies reporting requirements for companies authorized to provide telecommunications, IVoIP, video, payphone or shared tenant services in Missouri.*

(1) **Company contacts.** Any company receiving authorization from the Commission to provide telecommunications, IVoIP, video, payphone or shared tenant services shall maintain an updated list of company contacts in EFIS.

(2) **Annual Report.** A company certificated to provide telecommunications service or registered to provide IVoIP 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:

(A) All companies shall use the annual report form provided by the Commission on the Commission's website. All annual report forms shall contain a notarized affidavit verifying the accuracy of the annual report information and confirming the company's EFIS contact information and disaster recovery plan contacts are current.

(B) The deadline for a company to submit a completed annual report is April 15th. A company that is unable to meet the April 15 submission date deadline may request an extension of this deadline. Extension requests may be filed with the Commission in the form of a letter of explanation including the date by which the annual report will be filed. Although some limited extensions are automatically granted, longer extensions must be individually granted and all extensions must be requested before the filing deadline. The Commission annually notifies companies of the annual report form during the month of January. Such notice will be sent electronically to the Annual Report contact person listed in EFIS for each company. If the contact person does not have an email address available, the notice will be sent by regular mail. Failure to receive the annual report form does not relieve a company of its obligation to file the annual report. The form will be posted on the Commission's web site and available in EFIS no later than February 1 of each year.

(C) Annual reports should be submitted electronically into the EFIS as a non-case related submission. Please refer to EFIS's Help section for assistance in determining the specific filing designation.

(D) A company shall separately submit an annual report for each certificate or registration held by the company.

(E) A company may request confidential status for some or all of an annual report using the procedures described in the annual report instructions.

| **(23) Statement of Revenue Report.** All IVoIP 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 annual report form provided by the Commission on the Commission's website.

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

(B) The deadline for submitting a completed Statement of Revenue report is March 31st. The Commission annually notifies companies of the form on which to submit a statement of revenue during the month of January.

(C) Companies are encouraged to submit Statement of Revenue forms electronically to the Commission's EFIS as a non-case related submission;

however, a company may also submit a Statement of Revenue form by mailing the report to the Commission's Budget and Fiscal Services Department; P.O. Box 360; Jefferson City Missouri 65102. If filing into EFIS please refer to EFIS's Help section for assistance in determining the specific filing designation.

(D) The Commission shall confidentially maintain Statements of Revenue as provided for in Section 386.480 RSMo.

(34) Net Jurisdictional Revenue Report. A company certificated to provide telecommunications service or registered to provide IVoIP 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:

(A) Net jurisdictional revenue does not include revenue from wholesale services, payphone operations, taxes or uncollectibles.

(B) IVoIP providers unable to distinguish between intrastate versus interstate jurisdictions may determine net jurisdictional revenue by applying a safe harbor percentage to total revenues. The applied safe harbor percentage must correspond to the FCC's safe harbor percentage. For example if the FCC has established a safe harbor interstate percentage of 64.9% then an IVoIP provider may apply a safe harbor intrastate percentage of 35.1%.

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

1. Report revenue based on the unbundled service offering price for telecommunications or IVoIP service; or
2. Elect to report all bundled revenues as net jurisdictional revenue. IVoIP providers unable to distinguish between intrastate versus interstate jurisdictions may apply the safe harbor provision described in Subsection (B) to either of these two methods.

(D) Revenue associated with non-switched private line service should be considered net jurisdictional revenue; however, revenue associated with special access service should not be considered net jurisdictional revenue. A company offering non-switched private line service to a customer may

consider all of the customer's revenue to be within the interstate jurisdiction if 10% or more of the customer's private line network traffic is considered to be interstate traffic.

(E) A company solely certificated to provide payphone service or shared tenant services is not required to submit a net jurisdictional revenue report.

(F) Additional information regarding the net jurisdictional report is contained in Commission rule 4 CSR 240-31.060(3).

| **(45) Outage Report.** A telecommunications company shall notify the Commission of any service outage affecting 300 or more customers and lasting 30 minutes or longer. Companies solely certificated to provide private shared tenant service or payphone service are not required to submit outage reports. Outage report requirements are listed below:

(A) A company reporting an outage shall provide the following information:

1. Brief description of the outage;
2. Number of customers affected by the outage;
3. Date/time outage began; and
4. Expected date/time restoration of service.

(B) A company shall report an outage to the Commission by 5pm of the first business day following discovery of an outage.

(C) An outage report shall be electronically filed into EFIS as a non-case related submission.

(D) Outage reports shall be maintained as confidential.

| **(56) Disaster Recovery Plan.** A company certificated to provide telecommunications service ~~or registered to provide IVolP service~~ shall file a disaster recovery plan with the Commission. A company solely certificated to provide payphone service or shared tenant services is not required to submit a disaster recovery plan. Disaster recovery plan requirements are listed below:

(A) A company's disaster recovery plan filing with the Missouri Commission shall contain the following information:

1. A statement the company has written procedures identifying the steps to assume command and control in the event of a disaster;
2. A statement the company has written procedures for assessing damages in the event of a disaster;
3. A statement the company has written procedures for restoring service including a priority list for restoring service to critical customers and options for restoring service; and
4. The name, phone number and email address of a primary person(s) the Commission Staff may contact in the event of a disaster or to

- obtain additional information about the company's disaster recovery plan. If possible provide similar information for a secondary contact.
- (B) A disaster recovery plan shall be filed within twelve months of initiating service and be updated on a continual basis.
- (C) A disaster recovery plan shall be filed into EFIS as a non-case related submission. Please refer to EFIS's Help section for assistance in determining the specific filing designation.
- (D) Disaster recovery plans shall be maintained as confidential.

| **(57) Bankruptcy Notification.** A company shall notify the Commission if the company has filed for bankruptcy. Bankruptcy notification requirements are listed below:

- (A) The company's notice shall contain the following information:
1. Bankruptcy case number;
 2. Bankruptcy filing date;
 3. Bankruptcy chapter number; and
 4. Bankruptcy court.
- (B) In a subsequent filing with the Commission the company shall submit a copy of the court's order resolving the bankruptcy.
- (C) Notice shall be provided to the Commission no later than thirty days after filing for bankruptcy. The subsequent submission containing a copy of the court's order resolving the bankruptcy shall be submitted within 30 days of the court's order.
- (D) Bankruptcy notification filings shall be submitted electronically to EFIS as a non-case related submission. Please refer to EFIS's Help section for assistance in determining the specific filing designation.
- (E) Bankruptcy notices are classified as public documents in the Commission's EFIS unless the company requests the notice remain confidential.

28.050 Assessment Requirements	
Section	Comments
	No specific feedback has yet been received for this rule.

4 CSR 240-28.050 Assessment Requirements

PURPOSE: This rule identifies assessment requirements for companies offering telecommunications service or IVoIP service in Missouri.

(1) Commission Assessment.

Any company with a certificate of service authority to provide basic local exchange, non-switched local exchange, interexchange telecommunications services, including payphone providers and shared tenant service providers, or any company registered to provide IVoIP service shall be subject to the Commission assessment. Requirements for the assessment are listed below:

(B) The assessment shall be based on a company's total Missouri jurisdictional operating revenue as that term is defined in this chapter.

(C) The Commission's annual assessment is based on the Commission's expenditures relating to an industry (gas, electric, telecommunications, etc.) in the preceding fiscal year and assessed on a company's gross intrastate operating revenue for the previous calendar year (as reported by a company in its Statement of Revenue) to make up the necessary contribution for that industry. The Commission issues a Report and Order establishing the new assessment amount in June each year.

(D) Assessment notices are mailed to all companies subject to the jurisdiction of the Commission by July 1st. Payment is due by July 15th; however, companies may elect to make payment in quarterly installments.

(E) Any company failing to pay the assessment in a timely manner may be subject to penalties for failure to comply with a Commission order or demand.

(2) Missouri Universal Service Fund Assessment.

The Missouri Universal Service Fund assessment is applied to a company's net jurisdictional revenue as that term is defined in this chapter.

(A) Companies do not receive an invoice for the Missouri Universal Service Fund assessment.

(B) Delinquent payments are subject to late payment fees as determined by the Missouri Universal Service Fund Board and are posted on the Missouri Universal Service Fund Administrator's web site.

(C) Any company failing to pay the assessment in a timely manner may be subject to penalties for failure to comply with a Commission order or demand.

(D) Additional information regarding the Missouri Universal Service Fund assessment is contained in Commission rule 4 CSR 240-31.060.

(3) Relay Missouri Assessment.

Any company with a certificate of service authority to provide basic local exchange telecommunications service or company registered to provide I-VoIP service shall be subject to this assessment.

(A) The Relay Missouri assessment applies to “access lines” as that term is defined in this chapter with the following additional clarifications:

1. The number of access lines associated with a high-capacity line will be determined on a voice-grade equivalent basis. For example one high-capacity line equipped with twenty-four voice-grade channels should be considered twenty-four access lines.
2. One line connected to a private branch exchange should be considered as one access line.
3. The number of access lines associated with Centrex service to a subscriber’s location should be the number of Centrex stations capable of being used simultaneously.

(B) The Relay Missouri assessment will not apply to more than 100 access lines per subscriber location.

(C) A company shall label the surcharge as the “Relay Missouri Surcharge.”

(D) The Relay Missouri surcharge is exempt from taxes.

(E) A company is allowed to retain a portion of the revenue collected as instructed by the Commission. If the amount collected is equal to or less than a minimum flat dollar retention amount set by the Commission, then the company may retain the amount collected from the surcharge. In such situations, the company will not be reimbursed for the difference between the surcharge revenue collected and the minimum retention amount. The net revenue collected from the surcharge shall be remitted to the commission no later than thirty days after the last day of the calendar month. Specific payment instructions are posted on the Commission’s web site at www.psc.mo.gov.

(F) Delinquent payments are subject to a late payment fee of 1.5% per month.

Section	Comments
(1)	<p>MCTA: MoPSC lacks authority to impose safety standards on IVoIP providers.</p> <p>Staff: <i>Based on the prior revisions made to the proposed definition section Staff is under the impression this concern has been resolved.</i></p>
(2)	<p>Verizon: Should not impose call routing requirements on providers. MoPSC's existing authority already allows it to address complaints as needed. State call routing requirements could impede federal efforts by interfering with a consistent nationwide approach. In Minnesota the industry opposed a proposal to open a rulemaking. MoPSC lacks authority to impose call routing requirements on IVoIP providers.</p> <p>Staff: <i>Disagree. The proposed rule reflects a simple and practical requirement for ensuring calls will be completed. Fail to understand how this rule might conflict with federal efforts. Staff believes it has the authority under SB 651 specifically 392.611.3.</i></p>
(4)	<p>MTIA: Re-imposing quality of service rules conflicts with recently passed Senate Bill 651.</p> <p>AT&T: Section 392.245(8) affirmatively relieves competitively classified ILECs and CLECs from service quality rules and metrics. Thus, service quality rules should not apply even if a company elects to be subject to certain statutes.</p> <p>Staff: <i>Agree. Staff has removed this section.</i></p>
(5)	<p>AT&T: Should re-examine the need for the slamming rule given FCC rules fully address this area. MoPSC routinely waives this rule.</p> <p>MTIA: Slamming rule has been waived for most carriers and is inconsistent with Senate Bill 651.</p> <p>Staff: <i>Agree to remove this rule. The Missouri Commission made the decision several years ago to have the FCC handle slamming complaints rather than the Missouri Commission.</i></p>

4 CSR 240-28.060 Service Requirements

PURPOSE: This rule describes service requirements applicable for telecommunications companies.

(1) Any company providing intrastate telecommunications service shall comply with the safety standards identified in 4 CSR 240-18.010.

(2) Any company providing telecommunications or IVoIP services has a duty to ensure calls are being completed. No company shall intentionally frustrate, delay, impede or prevent the completion of any intrastate call.

(3) If a telecommunications company elects to be subject to certain statutes pertaining to duties, obligations, conditions or regulations on retail telecommunications services, the following requirements apply:

(A) A company shall ensure basic local telecommunications service is installed in a timely manner. Unless otherwise agreed to by the Commission, a company should monitor, on an exchange-specific basis, the percentage of initial service installation requests completed within five working days. The company shall report on a quarterly basis the aggregate percentage of orders for basic local telecommunications service completed within five working days; however, if an exchange has a result of less than 85 percent then the company shall identify the exchange, the exchange's result and provide an explanation for the exchange's sub-par service and what is being done to improve service within the exchange.

(B) A company shall ensure out-of-service conditions for basic local telecommunications service are restored in a timely manner. Unless otherwise agreed to by the Commission, a company should monitor, on an exchange-specific basis, the percentage of out of service conditions cleared within twenty-four hours. The company shall report on a quarterly basis the aggregate percentage of out-of-service conditions cleared within 24 hours. If an exchange has a result of less than 85 percent then the company shall identify the exchange, the exchange's result and provide an explanation for the exchange's sub-par service and what is being done to improve service within the exchange.

(C) A company shall ensure trouble incidents do not exceed six trouble reports per 100 lines. Unless otherwise agreed to by the Commission a company should monitor the number of trouble incidents per 100 lines on an

exchange-specific basis. Multiple trouble reports for the same access line can be tallied as one trouble report. A trouble report is still counted if the company responds to a trouble report and test results simply indicate the line is “OK”. Trouble reports may be excluded if the trouble is caused by faulty customer provided equipment or inside wire. A company shall report on a quarterly basis the aggregate percentage of trouble reports per 100 access lines. If an exchange has a result of 8 or more trouble reports per 100 access lines then the company shall identify the exchange, the exchange’s result and provide an explanation for the exchange’s sub-par service and what is being done to improve service within the exchange.

(D) Quarterly reports shall be submitted to the Commission’s EFIS as a non-case related submission within forty-five days following the end of a quarter. A company’s report shall be maintained on a confidential basis unless otherwise determined by the Commission.

~~(4) If the Commission finds a company that has elected not to be subject to certain statutes pertaining to duties, obligations, conditions or regulations on retail telecommunications services, has engaged in a pattern or practice of inadequate service for the provisioning of basic local telecommunications service, Commission can reinstate the requirements of Section (3) above.~~

~~(5) Telecommunications companies shall comply with federal requirements associated with changes in preferred telecommunications service providers as identified in 47 CFR Part 64 Subpart K.~~

28.070 Tariffs	
Section	Comments
	No specific feedback has yet been received for this rule.

4 CSR 240-28.070 Tariffs

PURPOSE: This rule identifies tariff requirements applicable to telecommunications companies.

- (1) A telecommunications company shall maintain a tariff for any wholesale service such as switched access service.
 - (2) A tariff is discretionary for any telecommunications company offering telecommunications service to residential or business retail end user customers. If a company does not use a tariff to describe a company's rates, terms, and conditions of service, the company shall maintain a publicly accessible website identifying retail prices for those services.
- (2) All tariffs shall be electronically filed in EFIS. Tariff submissions shall be subject to the following requirements:
- (A) A tariff submission to file a tariff or make changes to an existing tariff shall only be performed by an authorized company representative;
 - (B) A tariff submission shall comply with all EFIS tariff submission instructions. These instructions are located in EFIS under the "Help" selection on the main menu; and
 - (C) All requested and required information shall be input into the fields provided.
- (3) Tariffs shall comply with the following format requirements:
- (A) Bear a number with the following prefix: PSC Mo. No. __. Tariffs shall be numbered in consecutive order, starting with a No. 1 and continuing in numerical order. All sheets of the tariff shall have a sheet number in sequential number format;
 - (B) Each sheet of the tariff shall show in the top marginal space the name by which the company was certificated by the Commission and by which the company is registered with the Missouri Secretary of State, The name, title and address of the issuing officer or company-designated representative shall appear in the bottom marginal space of each sheet, along with the notation "effective, __20__."; and
 - (C) All new tariffs or all new pages added to a tariff shall be designated as an original sheet. All changes to tariffs shall be submitted in the form of a revised tariff and must be designated as follows: "First revised sheet (page) canceling original sheet", "Second revised sheet (page) canceling first revised sheet", etc. and must contain reference marks denoting changes.

(4) If a company maintains a tariff and changes its name, then a company shall comply with 4 CSR 240-28.030(8)(D).

(5) A telecommunications company that detariffs or partially detariffs shall submit a letter addressed to the Commission's Secretary and signed by an authorized company representative. The letter should be electronically filed in EFIS using the "Revised Current Tariff" submission option. The letter shall address the following:

- (A) The company's intent to detariff;
- (B) The effective date for detariffing;
- (C) The tariff or tariff pages to be withdrawn; and
- (D) The website containing rate, terms or conditions information. If this website subsequently changes then the company shall submit another letter into EFIS using the "Revised Current Tariff" submission option notifying the Commission of the revised website.

28.080 Interconnection Agreements	
Section	Comments
	No specific feedback has yet been received for this rule.

4 CSR 240-28.080 Interconnection Agreements

PURPOSE: This rule identifies requirements and procedures for applications for new interconnection agreements and the adoption of previously approved interconnection agreements.

(1) An application for approval of an interconnection agreement shall be submitted and signed by an attorney licensed to practice law in Missouri. The application shall be electronically filed as a new case submission in EFIS.

- (A) The Application shall include the following:
- 1. The legal names of the applicants;
 - 2. The type of organization of the applicant (Missouri corporation, foreign corporation, partnership, proprietorship, other);

3. Applicant's mailing address, electronic mail address, fax number and telephone number; and
 4. A statement that no annual report or assessment fees are overdue.
- (B) The interconnection agreement shall:
1. Have all pages of the agreement sequentially numbered; and
 2. Be signed by both parties to the agreement.
- (2) An adoption of an interconnection agreement previously approved by the Commission can be requested by either company by submitting a letter to the secretary of the Commission. The adoption will become effective on the date it is properly submitted to the Commission.
- (A) The letter shall include:
1. The case number in which the adopted agreement was previously approved by the Commission;
 2. The tracking number or case number of any amendments the parties will adopt; and
 3. A copy of the signature page signed by both parties to the adoption.
- (B) If both parties have signed the signature page to the adoption the request shall be electronically filed as an Interconnection Agreement Informal Submission in EFIS.
- (C) If both parties have not signed the signature page to the adoption the adopting company shall file an application with the Commission. The application shall be electronically filed as a new case submission in EFIS. The application shall be submitted and signed by an attorney licensed to practice law in Missouri and shall contain the following:
1. The legal name of the applicant;
 2. The type of organization of the applicant (Missouri corporation, foreign corporation, partnership, proprietorship, other);
 3. Applicant's mailing address, electronic mail address, fax number and telephone number;
 4. A statement that no annual report or assessment fees are overdue; and
 5. An explanation of the applicant's inability to obtain the other party's signature on the adoption.
- (D) The Commission will send notice to the non-signing party allowing twenty days for objection. If no objection is filed, the adoption will be approved by the Commission. If an objection is filed, the Commission will determine whether the adoption should be approved or rejected.

28.090 211 Service	
Section	Comments
	No specific feedback has yet been received for this rule.

4 CSR 240-28.090 211 Service

PURPOSE: This rule identifies requirements for an entity providing Information and Referral Services accessible by dialing “211” in Missouri.

(1) An entity shall be authorized by the Commission to provide information and referral services accessible by callers dialing “211” in Missouri. Only one I&R provider shall be authorized per area. The Commission will only consider authorizing an entity accredited by the Alliance of Information and Referral Systems. The application shall be electronically filed as a new case submission in EFIS.

(2) An application for authorization to provide I&R services accessible by callers dialing 211 shall contain the following information:

(A) Basic information about the applicant, including:

1. The applicant’s legal name;
2. The type of organization of the applicant (Missouri corporation, foreign corporation, partnership, proprietorship, other).
3. Applicant’s street address;
4. Applicant’s mailing address;
5. Applicant’s electronic mail address; and
6. Applicant’s fax number.

(B) A statement that the applicant is a not-for-profit organization as defined by section 501(c)(3) of the federal tax code or is a county, municipality, political subdivision, or agency of the state of Missouri.

(C) A statement that the 211 telephone line will be monitored twenty-four hours a day, seven days a week by one of the of the following:

1. The applicant’s personnel;
2. The personnel of another Missouri I&R Provider under subcontract with the applicant; or

3. The personnel of a qualified human services entity under subcontract with the applicant.

(D) A statement that the 211 telephone line will not be answered through an answering service or answering machine.

(E) A notarized affidavit signed by an officer or an authorized representative providing the following information:

1. The location of the principal place of business and the names of the principal executive officers of the applicant;
2. A statement the applicant is legally, financially, and technically qualified to provide the service;
3. A statement listing the exchanges to be served;
4. A statement the applicant is ready, willing, able and will comply with all Commission rules and policies;
5. A statement the applicant will be responsible for all costs of provisioning the service; and
6. A statement the applicant is accredited by the Alliance of Information and Referral Systems.

(2) Authorization granted by the Commission will be for a period of three years. An I&R provider with authorization to receive 211 dialed calls shall reapply for authority with the Commission at least ninety days prior to the expiration of the provider's authorization.

(3) An I&R provider with authorization to receive 211 dialed calls shall file an annual report with the Commission.

(A) The annual report shall document information and referral services provided including:

1. The geographical areas served;
2. Call volume;
3. Average speed of answering calls;
4. Average call length;
5. Number of abandoned calls;
6. Information on inquired needs;
7. Information on unmet needs; and
8. Barriers to service.

(B) The deadline to submit a completed annual report is April 15th. The report shall cover the previous calendar year.

(C) Annual reports shall be submitted electronically into EFIS as a non-case related submission.

(D) An annual report will be a public document.

Workshop for Proposed Chapter 28 Rulemaking
Governor Office Building Room 315
July 17, 2014 10:00 to noon

Purpose: Provide an informal forum to exchange information about the proposed rulemaking.

I. Introductions

II. Brief Overview of Rulemaking Process (& how this workshop fits into this process)

III. Proposal to Rescind Certain Rules

- a. Clarify rescinding proposal (all rules in Chapters 3, 30, 32 and 33); however, some of these rules will be revised and moved into Chapter 28.*
- b. Prospect of rescinding 2.061 (expanded calling rules).*
- c. Discuss prospect of incorporating 33.110 rules on complaint procedures into proposed Chapter 28.*

IV. Proposed Chapter 28 rulemaking Each rule will be separately discussed using the following format:

- a.** Brief explanation of the rule.
- b.** Highlight subsequent revisions to the proposed rule. Are these revisions OK?
- c.** Discuss unresolved concerns.
- d.** Are there any new concerns, comments or suggestions to improve the clarity of the rule?
- e.** Will the proposed rule, if approved, generate a fiscal impact of \$500 or more?
(Note: This amount is over the life of a rule which is typically assumed to be a 3 year time period.)

V. Next Steps

Rulemaking Process

Step	Description	Time/Deadline Comments
1	Establish working docket. Enable parties to review rule change proposal(s) and supply <i>informal</i> feedback either in writing and/or workshop. Feedback may generate revisions to the rule change proposal(s). Staff will ultimately submit the proposed rule to the Missouri PSC in an agenda meeting and point out areas of potential unresolved controversy based on feedback in the working docket.	Working docket activity usually lasts several months.
2	The Missouri PSC may revise the draft rule(s) before establishing a new case with a “TX” designation to formally consider the rule change proposals. ¹	The Commission might discuss the rulemaking at several agenda meetings.
3	Missouri PSC sends the proposed rule to the Department of Economic Development (DED) for DED’s approval to proceed with the rulemaking.	DED is not under a deadline.
5	Missouri PSC sends the proposed rule to the Missouri Secretary of State (SOS) and the Joint Committee on Administrative Rules (JCAR).	
6	Proposed rule gets published in the Missouri Register. The Missouri Register will describe how and when comments can be filed as well as when a hearing is scheduled.	Publication typically occurs 30-45 days after filing with SOS
7	Formal initial comments are filed in the TX case. (Note: Reply comments could also be scheduled but typically are not.)	Comment deadline ends 30 days after publication
8	Missouri PSC holds public hearing.	Included in the 30-day comment period in #7.
9	Missouri PSC must make a decision about the rule and sends to JCAR.	Must be done within 90 days of comment.
10	JCAR reviews the decision and resulting rule.	JCAR has 30 days to review, which is included in the 90 day time period in #9.
11	The Missouri PSC sends the Final Order of Rulemaking to the SOS.	Concurrent with submitting to JCAR.
12	Final Order of Rulemaking is published in the Missouri Register.	Publication typically occurs 30-45 days after filing with SOS
13	New rule published in Code of State Regulations (CSR).	Usually 30 days after publication in Missouri Register.
14	New rule become effective.	Usually 30 days after publication in CSR.

¹ The formal rulemaking case will be a new and separate case from the working docket case of Case No. TW-2014-0295.