

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

In the Matter of Proposed New Rule 4	)	
CSR 240-3.570 Regarding Eligible	)	
Telecommunications Carrier Designations	)	Case No. TX-2006-0169
for Receipt of Federal Universal Service	)	
Fund Support.	)	

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

In the December 1, 2005, edition of the *Missouri Register*, the Missouri Public Service Commission (Commission) published its proposed rule, 4 CSR 240-3.570 – Requirements for Carrier Designation as Eligible Telecommunications Carriers. The Staff offers the following comments regarding this proposed rule.

In March 2005, the FCC released a Report and Order (ETC Order) addressing the minimum requirements for a telecommunications carrier to be designated as an “eligible telecommunications carrier” or “ETC”.<sup>1</sup> The FCC “encourage[d] state commissions to require ETC applicants over which they have jurisdiction to meet these same conditions and to conduct the same public interest analysis outlined in this report and Order.” The FCC “further encourage[d] state commissions to apply these requirements to all ETC applicants in a manner that is consistent with the principle that universal service support mechanisms and rules be competitively neutral.” In 2005, Senate Concurrent Resolution 10 was proposed, “urg[ing] the public service commission to adopt rules governing the application process by which telecommunication providers can be certified as ‘eligible telecommunications carriers’ and who, in turn, can be subject to universal service fund support. The rules adopted by the Commission

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<sup>1</sup> *Report and Order*. In the Matter of Federal-State Joint Board on Universal Service. CC Docket No. 96-45. March 17, 2005.

shall utilize the minimum requirements for eligibility adopted and published by the Federal Communications Commission, consistent with the recommendations of the Federal-State Joint Board on Universal Service for eligibility.”

The Staff of the Missouri Public Service Commission (Staff) generally supports the rules with the following recommendations, suggestions and/or clarifications. A redlined version of the rule is attached with the suggested changes.

#### **4 CSR 240-3.570(1)**

This section of the proposed rule outlines definitions applicable to the purposes of the proposed rulemaking. Staff supports this section of the rule with the following modifications.

Throughout the comments on the various sections of the proposed rule, Staff recommends the rule be more competitively neutral by removing references to “competitive carriers”, “CMRS providers” or “alternative local exchange telecommunications carriers” and replacing those terms with “ETCs” or “carriers”. Therefore, Staff recommends a definition for carrier be added to the proposed rule and recommends the definition for ETC be modified. Staff also suggests the definition for “competitive carrier” be moved to its proper location alphabetically. Suggested language changes follow:

**(B) Carrier refers to alternative local exchange telecommunications carriers, commercial mobile radio service providers and incumbent local exchange telecommunications carriers.**

**(F) Eligible telecommunications carrier (ETC) is a carrier designated as such by the Missouri Public Service Commission pursuant to [47 CFR 54.201] 47 USC 214(e) in order to receive universal service support. Unless otherwise**

**specified, eligible telecommunications carrier (ETC) shall refer to alternative local exchange carriers, commercial mobile radio service providers and incumbent local exchange carriers.**

#### **4 CSR 240-3.570(2)**

This section of the proposed rule outlines items to be included in a request for ETC designation. The requirements largely incorporate the recommended guidelines in the FCC's ETC Order and include such things as intended use of high-cost support; a five-year plan demonstrating how high-cost universal service support will be used to improve coverage, service quality or capacity; how the proposed plans would not occur absent receipt of high-cost support; a demonstration that support will be used to cover expenses in addition to expenses normally incurred; and a demonstration of the carrier's ability to remain functional in emergency situations. Staff generally supports this rule but offers the following recommendations.

First, Staff recommends the carriers only be required to submit a two-year plan demonstrating how high-cost universal service support will be used. A two-year plan will allow the Commission to review the company's current plans and is relatively consistent with the incumbent local exchange carrier (ILEC) annual certification requirements. ILECs receive most of their high-cost support two years in arrears of expenses. During the annual certification process, ILECs submit documentation of expenses incurred two years previous and also submit true-up information on the prior year's documentation. For instance, for the 2006 certification, ILECs submitted expense information from 2004 and true-up data from 2003 (or representations of two years' data).

Under Staff's proposal, competitive carriers would submit projections of expenses for the next two years. While not an "apples to apples" comparison with the ILEC requirements, the

time frame for data would be relatively consistent. Further, competitive carriers would be required under another provision of the rule to annually update the two year projection making it a constantly revolving plan, consistently covering the annual certification process.

Second, Staff recommends subsection (D) be clarified to indicate that support will be used to cover expenses in addition to expenses normally incurred. The current language appears confusing on this issue.

Staff recommends 4 CSR 240-3.570(2) be changed as follows:

(B) A *[five (5)-year]* **two (2)-year** plan demonstrating how high-cost universal service support will be used to improve coverage, service quality or capacity throughout the service area for which the requesting carrier seeks ETC designation including a detailed map of coverage area before and after improvements;

(D) A demonstration that *[the receipt of]* high-cost support will only be used to improve coverage, service quality or capacity in the Missouri service area in which ETC designation is requested and that such support is **used to cover expenses that will be incurred** in addition to any expenses the competitive carrier would normally incur; and

#### **4 CSR 240-3.570(3)**

This section of the proposed rule incorporates the federal requirement that each request for ETC designation include a commitment to advertise the availability of services and charges using media of general distribution. Staff supports this section of the proposed rule as consistent with 47 U.S.C. 214(e)(1).

#### **4 CSR 240-3.570(4)**

This section of the proposed rule requires each request for ETC designation to include a commitment to provide Lifeline and Linkup discounts consistent with state and federal rules. The section also requires a commitment to publicize the availability of Lifeline in a manner reasonably designed to reach those that would qualify for assistance. Staff supports this section of the rule but suggests the following language changes for clarification.

(4) Each request for ETC designation shall include a commitment to provide Lifeline and Link Up discounts consistent with 47 CFR 54.401[,/ **and** 47 CFR 54.411. *[and Chapter 4 CSR 240-31 of the commission's rules.] [and]* **Each request for ETC designation shall include a commitment to** publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service consistent with 47 CFR 54.405.

**(5) Each request for ETC designation from a local exchange company shall include a commitment to provide Missouri Universal Service Fund (MoUSF) discounts consistent with Chapter 4 CSR 31 of the commission's rules.**

#### **4 CSR 240-3.570(5)**

This section of the proposed rule requires each request for ETC designation to include a commitment to offer a local usage plan and Lifeline and Linkup discounts comparable to those plans and discounts offered by the incumbent local exchange carrier. The key word in this section is “comparable”. According to Webster's New World Dictionary of the American Language, Library and Office Edition, “comparable” is defined as: “1. that can be compared; having characteristics in common. 2. worthy of comparison.”

The intent of this section is not to require wireless and wireline providers to offer identical local usage plans, but to require that they offer plans with similar characteristics when comparing calling scopes and monthly usage rates. The Commission would review compliance with this section of the rule on a case-by-case basis.

Staff recommends the section be modified to include a requirement to also offer state low income and disabled discounts. Staff recommends the section be modified as follows:

(/5/6)...Such commitment shall include a commitment to provide Lifeline and Link Up discounts **and MoUSF discounts pursuant to Chapter 4 CSR 240-31, if applicable**, at rates, terms and conditions comparable to the Lifeline and Link Up offerings **and MoUSF offerings** of the incumbent local exchange carrier providing service in the ETC service area.

#### **4 CSR 240-3.570(6)**

This section of the proposed rule sets forth a requirement that each request for ETC designation include a statement that the carrier will satisfy consumer privacy protection and service quality standards. Consumer privacy protection standards are set forth in 47 CFR 64 Subpart U. This section of the rule simply requires a statement that the carrier seeking ETC designation satisfies these requirements. Staff supports this language. Service quality standards will be discussed in Section 12, where the requirements are more specific.

#### **4 CSR 240-3.570(7)**

This section of the proposed rule requires each request for ETC designation to include a statement that the requesting carrier acknowledges it shall provide equal access if all other ETCs

in that service area relinquish their ETC designations. Section 214(e)(4) of the Telecommunications Act states:

(4) RELINQUISHMENT OF UNIVERSAL SERVICE. – A State commission shall permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier. An eligible telecommunications carrier that seeks to relinquish its eligible telecommunications carrier designation for an area served by more than one eligible telecommunications carrier shall give advance notice to the State commission of such relinquishment. Prior to permitting a telecommunications carrier to cease providing universal service in an area served by more than one eligible telecommunications carrier, the State commission shall require the remaining eligible telecommunications carrier or carriers to ensure that all customers served by the relinquishing carrier will continue to be served, and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier. The State commission shall establish a time, not to exceed one year after the State commission approves such relinquishment under this paragraph, within which such purchase or construction shall be completed.

While this excerpt is referencing basic local telephone service, when read in the context with other federal guidelines or mandates, it becomes clear that state commissions may review equal access provisions for ETCs. For instance, 47 U.S.C. § 332 (c)(3)(A) states,

(3) STATE PREEMPTION. – (A) Notwithstanding sections 2(b) and 221(b), no State or local government shall have any authority to regulate the entry of or the rates charged by any commercial mobile service or any private mobile service, except that this paragraph shall not prohibit a State from regulating the other terms and conditions of commercial mobile services.

Further, in its ETC Order, where the FCC encouraged state commissions to apply similar guidelines when reviewing ETC designation requests, the FCC states at paragraph 36:

Under section 214(e)(4) of the Act, if an ETC relinquishes its ETC designation [state commissions] must examine whether the customers that are being served by the relinquishing carrier will be served by the remaining ETC or ETCs. As part of that process, [state commissions] might also examine whether it is necessary to require the remaining ETC to provide equal access.

Staff supports this section of the proposed rule. However, for clarification and consistency, Staff suggests the section be modified as follows:

(/7/8) Each request for ETC designation shall include a statement that the requesting carrier acknowledges it shall provide equal access if all other ETCs in that service area relinquish their designations pursuant to section 214(e) of the Telecommunications Act of 1996 **and if so ordered by the commission.**

#### **4 CSR 240-3.570(8)**

This section of the proposed rule requires each request for ETC designation by a commercial mobile radio system (CMRS or wireless) provider to include a commitment to abide



by the CTIA Consumer Code for Wireless Service. Staff supports this section. Incumbent and competitive local exchange carriers are subject to many Commission rules designed to protect the consumer. Since the Commission rules, except as incorporated in this rule, are not applicable to CMRS providers, a commitment to comply with the CTIA Consumer Code provides the Commission with some leverage to ensure consumers served by wireless ETCs have some protections in place. Failure to provide these protections could result in the CMRS provider losing ETC designation.

During the drafting of the proposed rule, there were many discussions as to whether it would be more efficient to list the CTIA Consumer Code requirement by requirement in the proposed rule or to simply reference the Code as in the version that was published on December 1. Discussions evolved around concerns with future changes to the Code and the corresponding updates to a rule. Staff suggests section (8) be modified and a new section (9) be added to address future CTIA Code updates. Staff suggests the following changes:

*(/8/9)* Each request for ETC designation by a CMRS provider shall include a commitment to abide by the **consumer code for wireless service recognized by the Cellular Telecommunications and Internet Association (CTIA)** *[Consumer Code for Wireless Service]* **at the time of the ETC designation request. As part of its initial application, a CMRS provider shall include a copy of the consumer code for wireless service currently recognized by the CTIA to which it commits to abide.**

*(/9/10)* Any CMRS provider designated as an ETC shall file with the Commission, any change(s) to the consumer code for wireless service included with its application or any subsequent code approved under this

**section of the rule, within 30 days of the change(s). The Commission shall allow interested parties 30 days to provide comment as to whether the CMRS provider should be required to commit to the proposed changes, or should continue to abide by the consumer code for wireless service currently approved for that provider.**

#### **4 CSR 240-3.570(9)**

This section of the proposed rule requires ETCs to develop a bill design that can be easily interpreted by customers and sets forth charges in compliance with state and federal billing requirements. The proposed rule also states that ETCs shall not represent that the carrier's discretionary cost recovery fees are taxes or government fees. Staff generally supports this section of the proposed rule because it requires ETCs to comply with existing state and federal billing requirements. However, Staff suggests the clause "and shall not represent that the carrier's discretionary cost recovery fees are taxes or government fees" be removed. This concept is incorporated in 4 CSR 240-33.045 and FCC rules<sup>2</sup>. By requiring compliance with state and federal billing requirements, the rule already implicitly requires compliance with the concept of the phrase.

#### **4 CSR 240-3.570(10)**

This section of the proposed rule outlines service provisioning commitments. Subsection (A) outlines features that each competitive carrier designated as an ETC shall make available to end-users. Such features include dual tone multi-frequency signaling or its functional equivalent; single-party service; access to emergency services; emergency telephone number services like enhanced 911 service; access to interexchange service; access to

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<sup>2</sup>47 CFR 64 Subpart Y.

telecommunications relay services by dialing 711; access to directory assistance service; access to operator services; toll limitation and/or blocking for qualifying low income customers; unlimited local calling for Lifeline subscribers within the ETC service area.

Subsections (B), (C) and (D) outline requirements a carrier designated as an ETC must apply when extending its network to serve new customers. These requirements include such things as publicizing construction of new facilities that expand or enhance the service area; modifying or replacing customer equipment to provide acceptable service; deploying equipment at the customer premises; offering resold service; and determining whether special construction is needed.

To make this section as competitively neutral as possible, Staff suggests the following changes:

- In subsection (10)(A), remove the word “competitive” and renumber accordingly and consistent with other changes so that the sentence begins: (A) Each ETC shall...
- Remove subsection (10)(A)1 in its entirety. The local usage requirement is contained in Section (6) of this rule and would not be applicable to the incumbent local exchange carrier.
- Move subsection (10)(B) to the beginning of subsection (10)(D) for consistency and renumber accordingly.
- In subsection (10)(C), remove “carriers designated as an” and make “ETC” plural.
- In subsection (10)(D), remove all references to the word “competitive” so that the requirements apply to all ETCs.
- Clarify that (10)(D)1 applies to customers residing in an area currently served by the ETC as follows:

1. If a request comes from a customer *[within its existing service area]* **residing in an area where the competitive ETC currently provides service**, the competitive ETC shall immediately provide service using its standard customer equipment.
- In subsection (10)(D)4, change “quarterly report” to “annual certification documentation submitted,” and add “reasonable” before possibility, so the requirement will now read:
  4. If there is no **reasonable** possibility of providing service to the requesting customer, the *[competitive]* ETC shall notify the customer and include such information in its *[quarterly report]* **annual certification documentation** to the commission.

#### **4 CSR 240-3.570(11)**

This section of the proposed rule requires carriers to abide by certain quality of service rules. For “alternative” local exchange carriers, there is a requirement to abide by Chapter 32 of the Commission’s rules. To make the ETC rule as competitively neutral as possible, Staff suggests “alternative” be removed from this section, making the requirement applicable to all local exchange carriers.

For CMRS providers, the requirements include compliance with 4 CSR 240-32.040 – Metering, Inspections and Tests; 4 CSR 240-32.050(1-3 and 6) – certain requirements to respond to customer service inquiries; 4 CSR 240-32.060(1), (5-10), (12(H)), (15) – Engineering and maintenance related to safety standards; 4 CSR 240-32.070 – Quality of Service; 4 CSR 32.080(1-4), (5(A-D)), (5H) – Service Objectives and Surveillance Levels; 4 CSR 240-32.100(1) and (2) – Provision of Basic Local and Interexchange Telecommunications Service consistent with the requirements of ETC designation; and 4 CSR 240-32.200 – General Provisions for the Assignment, Provision and Termination of 211 Service.

Chapter 32 of the Commission's rules typically apply to "telecommunications companies"; however, in an effort to develop some quality of service rules that are applicable to all carriers receiving ETC designation, Staff, with some input from the industry, extracted certain Chapter 32 rules that could be applied to CMRS providers in modified format.

Staff supports this section of the proposed rule since it provides neutrality to the rule. For clarity, Staff suggests the language be modified as follows:

*([11]/13)* Each *[alternative]* local exchange carrier designated as an ETC shall abide by Chapter 4 CSR 240-32 of the Commission's rules. Except as otherwise provided in this rule, each CMRS carrier designated as an ETC shall comply with **the same requirements that apply to telecommunications companies under 4 CSR 240-32.040, 4 CSR 240-32.050(1)-(3) and (6), 4 CSR 240-32.060 (1), (5)-(10), (12)(H), (15), 4 CSR 240-32.070, 4 CSR 240-32.080 (1)-(4), (5)(A)-(D), (5H), 4 CSR 240-32.100(1) and (2), and 4 CSR 240-32.200 by replacing "basic local" or "telecommunications" with CMRS and by replacing all references to wireline services, facilities and/or equipment with the equivalent CMRS service, facility and/or equipment and replacing any references to "tariff" with "informational filing" consistent with section 15.**

#### **4 CSR 240-3.570(12)**

This section of the proposed rule requires CMRS providers to make an informational filing with the Commission of all service offerings and to update such informational filing when service offerings are introduced or modified. Such a requirement will make ETC designation more competitively neutral because CMRS providers will make filings with the Commission

similar to the LEC tariffing requirements. Staff supports this section as it is not anticipated that the Commission will review and/or approve such filings, which would impose new regulatory burdens on CMRS providers. Further, it is anticipated that no party will be able to challenge the informational filings. The informational filings will only provide the Commission and the consumer with a source to access service offering information for all providers designated as ETCs. A similar requirement is contained in the Oklahoma wireless ETC rules, with language clarifying that the Oklahoma Commerce Commission had no authority over the filings. The Staff recommends a slight modification to this section for clarification purposes, as shown in the attachment.

#### **4 CSR 240-3.570(13)**

This section of the proposed rule outlines requirements for competitive carriers to maintain records of customer complaints. The Staff supports this requirement but suggests all references to “competitive” or “CMRS” be removed to make the proposed rule competitively neutral.

#### **4 CSR 240-3.570(14)-(16)**

These sections of the proposed rule set forth requirements for competitive carriers or Commission staff to inform customers of their right to file informal or formal complaints with the Commission. These sections also set forth standards for competitive carriers to respond to Commission inquiries. As with other sections of the proposed rule, Staff supports these requirements but suggests all references to “competitive” be removed to make the proposed rule competitively neutral.

#### **4 CSR 240-3.570(17)**

This section of the proposed rule requires customer service contact information be provided to customers if the competitive ETC uses third party billing agents. Staff recommends this section be expanded to require a customer service contact whether the carrier uses a third party billing agent or not. The proposed section also appears to be lacking some verbiage. Staff suggests the section be modified as follows:

*([17]/20)* **Each ETC shall [P]**provide customer service contact information online and on billing statements. **This requirement also applies to [if the competitive]** ETCs **that use[s]** a third party billing agent.

#### **4 CSR 240-3.570(18)**

This section of the proposed rule requires CMRS providers designated as ETCs to submit to the Telecommunications Department quarterly reports of customer complaints and of incidents where the ETC was unable to provide service following a request for service.. Staff does not support this requirement as currently proposed because it places a burden on CMRS providers not currently placed on local exchange carriers. Further, the requirement to report on the CMRS' inability to provide service is not consistent with Staff's suggested change to Section (10)(D)4. Staff suggests the section be modified as follows:

*([18]/21)* Each *[CMRS provider designated as an]* ETC shall submit to the *[C]*commission~~*[ 's Telecommunications Department]*~~, **its staff or the Office of Public Counsel, upon request,** a *[quarterly]* report of its customer complaints as indicated in Section 19 above. *[and its inability to provide service as indicated in section 11(D) above.]*

#### **4 CSR 240-3.570(19)**

This section of the proposed rule requires alternative local exchange carriers to continue to submit quarterly quality of service reports. Staff supports this section because it clarifies that current quality of service reporting requirements are not replaced by any provision in the ETC proposed rulemaking, but recommends the word “alternative” be removed, making the requirement applicable to all local exchange carriers. Staff further recommends the section be moved so that it immediately follows the CMRS quarterly quality of service reporting requirements in section 13.

#### **4 CSR 240-3.570(20)**

This section of the proposed rule requires CMRS providers to submit annual reports to the commission on or before April 15 of each year. Staff does not support this section and recommends that it be removed from the rule. There are several provisions in the proposed rule requiring CMRS providers designated as an ETC to maintain and/or provider reports to the Commission. These reports are directly related to the ETC designation. Annual reports typically require carriers subject to the Commission’s jurisdiction to report on Missouri-regulated aspects of the business. Annual reports for CMRS providers, although not currently developed, would, presumably, require similar information, thus requiring them to report certain information clearly not subject to the Commission’s jurisdiction or related to ETC designation.

#### **4 CSR 240-3.570(21)**

This section of the proposed rule requires ALECs designated as ETCs to continue to submit annual reports consistent with 4 CSR 240-3.540. This section was added in an attempt to make the proposed rulemaking competitively neutral. Since Staff recommends section 20 be



removed, Staff further recommends section 21 be removed. Removal of this section from the proposed rule does not remove the requirement that ALECs submit annual reports.

#### **4 CSR 240-3.570(22)**

This section of the proposed rule requires competitive carriers to notify the manager of the Telecommunications Department of any change in company contacts. To make the proposed rule competitively neutral, Staff suggests the word “competitive” be removed. Staff further suggests the proposed rule be modified to allow carriers to either notify the manager of the Telecommunications Department or to update EFIS when company contact information is changed. Staff suggests the following language:

- (22) Each [*competitive carrier designated as an*] ETC shall, **within thirty (30) days of a change in the company-designated contacts, either** notify the manager of the Telecommunications Department, in writing or by electronic mail, **or shall update the commission’s electronic filing system (EFIS)** [*within thirty (30) days of a change in the company-designated contacts*]. The **notification or** update shall include the name(s), address(es) and/or telephone number(s) of the designated individual(s). The contact name(s) provided pursuant to this subsection shall be the individual(s) primarily responsible for: customer service; repair and maintenance; answering complaints; authorizing and/or furnishing refunds to customers; and informational **or tariff** filing issues.

#### **4 CSR 240-3.570(23)**

This section of the proposed rule requires all carriers designated as ETCs to comply with the Commission's annual certification process as it was established in TO-2002-347 and as subsequently amended. Since amendments to the process occurred outside a commission case or formal rulemaking, ETCs are encouraged to contact the Telecommunications Department for information related to current processes. Staff is also working on getting these guidelines placed on the Commission's website for future reference. Staff supports this section of the rule since it provides the information necessary to assist the Commission in its annual certification to the FCC. However, to avoid any confusion over what process is the appropriate process, Staff recommends the section be modified to remove the reference to the commission's order in Case No. TO-2002-347. The section would read:

(23) All *[carriers designated as]* ETCs shall, *[/]* by August 15 of each year, **submit an affidavit executed by an officer of the ETC attesting that federal high-cost support is used consistent with the commission's rules and the Telecommunications Act of 1996. The affidavit will be accompanied by documentation of support received and costs incurred. The commission or its staff may request additional information regarding the annual certification.** *[as outlined in the commission's Order Establishing Certification Procedure in Case No. TO-2002-347, and as subsequently amended.]* Questions regarding the appropriate **documentation** for *[competitive]* carriers designated as ETCs should be directed to the Commission's Telecommunications Department.

#### **4 CSR 240-3.570(24)**

Staff supports this section of the rule which outlines additional information competitive carriers must submit by August 15 of each year to assist the Commission in its annual certification process. Under the annual certification process, ILECs are required to submit, by August 15 of each year, certain spreadsheets summarizing USF expenses and receipts. For instance, for funding year 2006, ILECs provided spreadsheets on 2004 expenses and a true-up of 2003 data previously submitted. In contrast, since competitive carriers do not have the reporting requirements placed on ILECs, the competitive carriers, including wireless providers, only provide balances for a few accounts as follows.

1. Net Plant Investment
3. Expenses – Plant Specific Exp
4. Plant Non Specific Expense
5. Customer Operations Expense
6. Depreciation & Amortization Exp
7. Corporate Operating Expenses
8. Other Expenses and Revenues
9. Taxes

The additional information in section 24 of the proposed rule is consistent with the suggested guidelines in the FCC's ETC Order and includes such things as progress updates on the five year improvement plan, detailed information on outages; detailed information on requests for service from potential customers that were unfulfilled; a demonstration that the high-cost support was only used to improve coverage, service quality or capacity in the Missouri

service area of the ETC and an affidavit certifying the competitive ETC continues to comply with the various sections of the proposed rulemaking.

Any changes the Commission makes to other parts of the rule, for instance modifying the five year improvement plan requirement or modifying the quality of service or customer complaint sections will also need to be updated in this section accordingly. If the Commission accepts all of Staff's suggested changes, Staff recommends this subsection be changed as follows:

(24) In addition to the information submitted in Section (23) above, each *[competitive carrier designated as an]* ETC must submit **to the Telecommunications Department Staff, the following information** by August 15 of each year.

(A) **Competitive carriers designated as ETCs shall submit** *p[P]*rogress updates on its *[five(5)-]* **two (2)**-year improvement plan;

(B) **All ETCs shall submit** *d[D]*etailed information on outages in its network for the past year **if not previously submitted in quarterly quality of service reports;**

(C) **All ETCs shall submit** *d[D]*etailed information on how many requests for service from potential customers were unfulfilled for the past year;

*[(D) the number of complaints for the previous year;]*

*[(E)]***D**Competitive carriers designated as ETCs shall submit a *[A]* demonstration that the receipt of high-cost support was only used to improve coverage, service quality or capacity in the Missouri service area in which ETC

designation was granted and that such support was used in addition to any expenses the competitive carrier would normally incur; and

*([F]E)* All ETCs shall submit an affidavit signed by an officer of the company certifying that the *[competitive]* ETC continues to comply with the applicable service quality standards and consumer protection rules; and

*([G]F)* All competitive carriers designated as ETCs shall submit an affidavit signed by an officer of the company further certifying that the competitive ETC continues to be able to function in emergency situations, continues to offer a local usage plan comparable to that offered by the incumbent LEC in the relevant service areas, and continues to **acknowledge that it shall** provide equal access to interexchange carriers **if all other ETCs in that service area relinquish their designations pursuant to section 214(3) of the Telecommunications Act of 1996 and if so ordered by the commission.**

#### **4 CSR 240-3.570(25)**

This section of the proposed rule requires all reports submitted to the commission to be attested to by an officer or authorized agent of the carrier designated as an ETC. Staff supports this section since it requires an affidavit or some other type of affirmative statement as to the validity of the report.

#### **4 CSR 240-3.570(26)**

This section of the rule requires all competitive carriers designated as an ETC to keep all books and records in accordance with good business practices and to make such books available

to the Commission for examination. Staff generally supports this section, but recommends the following changes for clarification and to make the section competitively neutral.

*([26/27)* **Except as otherwise provided in commission rules,** [E]each *[competitive carrier designated as an]* ETC governed by this rule shall keep all of its 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 places as they are normally kept in the usual course of business. The *[competitive carrier designated as an]* 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.

#### **4 CSR 240-3.570(27)**

This section of the rule states all records required by this proposed rule shall be preserved for at least two (2) years. Staff supports this section because it ensures that records the Commission, Staff or the Office of the Public Counsel may request will be available for a minimum of two years. The two year requirement is also consistent with the timeframe in the Commission's annual certification process and consistent with Staff's recommendation for the improvement plan required when seeking ETC designation.

#### **4 CSR 240-3.570(28)**

This section of the rule requires each competitive carrier designated as an ETC to promptly furnish any other information the commission staff may reasonably request. Staff

supports this requirement but suggests the following language for clarification and competitive neutrality.

*([28/29) Each [competitive carrier designated as an] ETC shall, **upon request**, promptly furnish such other information **related to its designation as an ETC to the commission, its staff or the Office of the Public Counsel** [as the commission staff may reasonably request].*

#### **4 CSR 240-3.570(29)**

This section of the proposed rule requires CMRS carriers designated as an ETC to file an application to reflect a change in the name under which the CMRS provider will be doing business in Missouri. Staff supports this section because it is consistent with 4 CSR 240-3.545, which requires local exchange carriers to notify the Commission of name changes, thereby allowing the Commission to remain informed of the name of all carriers designated as ETCs. However, the terminology, “shall file”, “application” and “The request for name change”, implies the CMRS provider must seek approval from the Commission for the name change to be proper. Staff recommends the language in this section be modified as follows:

*([29/30) Each CMRS carrier designated as an ETC shall [file with] **submit to the Commission [an application to] a letter** reflecting a change to the name and/or change, deletion or addition of a trade name under which the CMRS ETC will be doing business in the State of Missouri.*

*(A) The [request for] **notification of** name change or [request for] **notification of** change, addition, or deletion of a trade name shall be accompanied by the following, as applicable:*

#### **4 CSR 240-3.570(30)**

This section of the proposed rule states that carriers designated as an ETC shall not self-certify to the Universal Service Administrative Company (USAC). Staff strongly supports this section of the proposed rule. In conversations with USAC, Staff discovered that, absent an explicit statement from a state commission, such as in an order granting ETC status, saying carriers designated as ETCs cannot self-certify, a carrier has the ability to certify to USAC that it is using the high-cost support funds as intended without input or certification from the state commission. Since Missouri has asserted jurisdiction over ETC certifications, the self-certification process is in conflict with the requirement that states asserting jurisdiction certify carriers to receive funds. Staff encourages the Commission to include this requirement.

#### **4 CSR 240-3.570(31)**

This section of the proposed rule states that carriers designated as an ETC shall not willfully make any false entries in accounts, books, records or memoranda; shall not willfully destroy, mutilate, alter or falsify the record; and shall not falsely make statements to the Commission. Staff supports this section of the proposed rule in light of recent admissions of activities designed to defraud the Universal Service Fund and the National Exchange Carriers Association.

#### **4 CSR 240-3.570(32)**

This section of the proposed rule sets out the process to file any allegations pertaining to a failure to comply with the rule. The section states that resolution of the complaint associated with those allegations could result in revocation of the carrier's ETC designation. Once again, in light of recent admissions of activities designed to defraud the Universal Service Fund and the



National Exchange Carriers Association, Staff supports this section. However, to make the section as competitively neutral as possible, Staff suggests the reference to “competitive” be removed.

#### **4 CSR 240-3.570(33)**

This section of the proposed rule clarifies that the Commission shall not annually certify any ETC that is in violation of the ETC rule. Staff supports this section because it is consistent with the intent of the annual certification process.

#### **New Sections to the Proposed Rule**

Staff suggests two sections be added to the proposed rule. First, a section should be added as Section 25, with all subsequent sections renumbered accordingly. Staff suggests the new section should read:

**(25) All ETCs 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.**

Pursuant to 47 C.F.R. § 54.316, each state must annually review the comparability of residential rates in rural areas served by non-rural incumbent local exchange carriers when compared to urban rates nationwide, and certify to the FCC and USAC whether the rates are reasonably comparable. To date, Staff has only completed this comparison for one ETC and that comparison has required information that must be obtained from the carrier. If additional

carriers, including CMRS providers, are designated as ETCs in non-rural areas, it will become even more necessary for Staff to receive assistance in complying with this federal requirement.

Second, for all carriers designated as ETCs, Staff recommends an additional section be added to the proposed rule that requires those carriers to comply with all sections of 4 CSR 240-3.570 prior to the October 1, 2006 annual certification date. Staff further recommends the rule require each carrier designated as an ETC to submit to the Staff by August 15, 2006, along with its annual certification documentation, a statement as to the ETC's compliance with this rule.

Finally, Staff recommends that for any pending ETC requests, carriers be required to submit, within 30 days of the effective date of the rule, any information required by the rule that is not part of the record in the pending request or a statement that the carrier submitted all required information as part of its request. Staff recommends the following language:

**(35) All ETCs shall submit to the commission staff, by August 15, 2006, a statement of compliance with 4 CSR 240-3.570. All carriers with requests for ETC designation pending as of the effective date of this rule shall submit, within 30 days of the effective date of the rule, any missing information required by 4 CSR 240-3.570 or a statement that all required information was previously submitted as part of the request for ETC designation.**

No significant additional fiscal impact is anticipated by the recommended additions to the rule.

WHEREFORE, the Staff respectfully submits these comments on the proposed rulemaking.

Respectfully submitted,

DANA K. JOYCE  
General Counsel

**/s/ Marc Poston**

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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 3<sup>rd</sup> day of January 2006.

**/s/ Marc Poston**

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


In the Matter of a Proposed New Rule 4     )  
CSR 240-3.570 Regarding Eligible         )  
Telecommunications Carrier Designations     )  
for Receipt of Federal Universal Service     )  
Fund Support.                                 )

Case No. TX-2006-0169

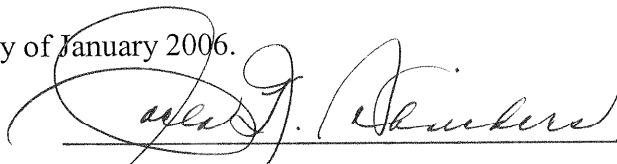
**AFFIDAVIT OF NATELLE DIETRICH**

STATE OF MISSOURI     )  
                                   )ss.  
COUNTY OF COLE     )

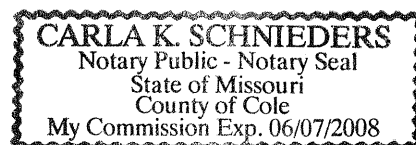
Natelle Dietrich, being of lawful age and after being duly sworn, states that she is employed by the Missouri Public Service Commission as a Regulatory Economist III in the Telecommunications Department, that she participated in the preparation of and read the foregoing Comments of the Staff of the Missouri Public Service Commission, that she has knowledge of the matters set forth in the Comments of the Staff of the Missouri Public Service Commission, and that such matters are true to the best of her knowledge and belief.

  
\_\_\_\_\_  
Natelle Dietrich

Subscribed and sworn to before me this 3<sup>rd</sup> day of January 2006.

  
\_\_\_\_\_

Appendix A



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

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

**PURPOSE:** *This rule establishes criteria for submission to the commission when a company seeks designation as an eligible telecommunications carrier and to establish criteria for carriers designated as eligible telecommunications carriers.*

(1) For purposes of this rule, the following definitions apply.

(A) Alternative local exchange telecommunications company (ALEC) is as defined in Section 386.020(1) RSMo.

(B) Carrier refers to alternative local exchange telecommunications carriers, commercial mobile radio service providers and incumbent local exchange telecommunications carriers.

~~(B)~~(C) Commercial mobile radio service (CMRS) provider provides service as identified in 47 C.F.R. Parts 20 and 24.

(D) Competitive carrier, unless otherwise specified, shall refer to both commercial mobile radio service providers and alternative local exchange telecommunications carriers.

~~(C)~~(E) Eligible telecommunications carrier (ETC) is a carrier designated as such by the Missouri Public Service Commission pursuant to 47 CFR 54.201 USC 214(e) in order to receive universal service support. Unless otherwise specified, eligible telecommunications carrier (ETC) shall refer to alternative local exchange carriers, commercial mobile radio service providers and incumbent local exchange carriers.

~~(D)~~(F) Incumbent local exchange telecommunications company is as defined in Section 386.020(22) RSMo.

~~(E)~~ Competitive carrier shall refer to both commercial mobile radio service providers and alternative local exchange telecommunications carriers.

(2) Each request for ETC designation shall include:

(A) Intended use of the high-cost support, including detailed descriptions of any construction plans with start and end dates, populations impacted by construction plans, existing tower site locations for CMRS cell towers, and estimated budget amounts;

(B) A ~~five (5)~~two (2)-year plan demonstrating how high-cost universal service support will be used to improve coverage, service quality or capacity throughout the service area for which the requesting carrier seeks ETC designation including a detailed map of coverage area before and after improvements;

(C) A statement as to how the proposed plans would not otherwise occur absent the receipt of high-cost support;

(D) A demonstration that the receipt of high-cost support will only be used to improve coverage, service quality or capacity in the Missouri service area in

which ETC designation is requested, and that such support is used to cover expenses that will be incurred in addition to any expenses the competitive carrier would normally incur; and

(E) A demonstration of the carrier's ability to remain functional in emergency situations.

(3) Each request for ETC designation shall include a commitment to advertise the availability of services and charges therefore using media of general distribution throughout the ETC service area.

(4) Each request for ETC designation shall include a commitment to provide Lifeline and Link Up discounts consistent with 47 CFR 54.401, and 47 CFR 54.411, ~~and~~ Each request for ETC designation shall include a commitment to publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service consistent with 47 CFR 54.405.

(5) Each request for ETC designation from a local exchange company shall include a commitment to provide Missouri Universal Service Fund (MoUSF) discounts consistent with Chapter 4 CSR 31 of the commission's rules.

~~(5)~~(6) Each request for ETC designation shall include a commitment to offer a local usage plan comparable to those offered by the incumbent local exchange carrier in the areas for which the carrier seeks designation. Such commitment shall include a commitment to provide Lifeline and Link Up discounts and MoUSF discounts pursuant to Chapter 4 CSR 240-31, if applicable, at rates, terms and conditions comparable to the Lifeline and Link Up offerings and MoUSF offerings of the incumbent local exchange carrier providing service in the ETC service area.

~~(6)~~(7) Each request for ETC designation shall include a statement that the carrier will satisfy consumer privacy protection standards as provided in 47 CFR 64 Subpart U and service quality standards as provided in section ~~(4213)~~ below.

~~(7)~~(8) Each request for ETC designation shall include a statement that the requesting carrier acknowledges it shall provide equal access if all other ETCs in that service area relinquish their designations pursuant to section 214(e) of the Telecommunications Act of 1996 and if so ordered by the commission.

~~(8)~~(9) Each request for ETC designation by a CMRS provider shall include a commitment to abide by the consumer code for wireless service recognized by the Cellular Telecommunications and Internet Association (CTIA) at the time of the ETC designation request. As part of the initial application, a CMRS provider shall include a copy of the consumer code for wireless service currently recognized by the CTIA to which it commits to abide.

(10) Any CMRS provider designated as an ETC shall file with the Commission, any change(s) to the consumer code for wireless service included with its application or any subsequent code approved under this section of the rule, within 30 days of the change(s). The Commission shall allow interested parties 30 days to provide comment as to whether the CMRS provider should be required to commit to the proposed changes, or should continue to abide by the consumer code for wireless service currently approved for that provider.

~~(911) Carriers designated as ETCs shall develop a bill design that can be easily interpreted by their customers and clearly sets forth charges in compliance with state and federal billing requirements; and shall not represent that the carrier's discretionary cost recovery fees are taxes or government fees.~~

~~(4012)~~ Service Provisioning Commitment

(A) Each ~~competitive carrier designated as an ETC~~ shall make available to each end-user subscribing to its supported services within its ETC designated service area the following service features:

- ~~1.A~~ local usage plan comparable to those offered by the incumbent local exchange carrier in the area(s) for which the carrier seeks designation;
- ~~2.1~~ Dual tone multi-frequency signaling or its functional equivalent;
- ~~3.2~~ Single-party service or its functional equivalent;
- ~~4.3~~ Access to emergency services;
- ~~5.4~~ Emergency telephone number services capable of automatic number identification, automatic location identification and call routing facilities to facilitate public safety response; e.g., Enhanced 911 Service, where the local government agency serving the end-user has in place a Public Safety Answering Point;
- ~~6.5~~ Access to interexchange service;
- ~~7.6~~ Access to telecommunications relay services by dialing 711;
- ~~8.7~~ Access to Directory Assistance service;
- ~~9.8~~ Access to operator services;
- ~~10.9~~ Toll limitation and/or blocking for qualifying low-income consumers.; and
- ~~11.10~~ Unlimited local calling for Lifeline subscribers within its service area.

~~(B) Once designated as an ETC, a carrier shall extend its network to serve new customers upon a reasonable request.~~

~~(C) All carriers designated as an ETCs shall publicize the construction of all new facilities that will expand the service area or enhance services in unserved or underserved areas so that consumers are aware of the improved service in the area.~~

~~(D) Once designated as an ETC, a carrier shall extend its network to serve new customers upon a reasonable request. All competitive carriers designated as an ETCs~~

shall take the following steps, as applicable, to respond to all reasonable requests for service within its ETC service area.

1. If a request comes from a customer ~~within its existing service area residing in an area where the competitive ETC currently provides service~~, the competitive ETC shall immediately provide service using its standard customer equipment.
2. If a request comes from a customer residing in an area where the competitive ETC does not currently provide service, the competitive ETC shall take steps to provision service as follows:
  - A. Modify or replace the customer's equipment to provide acceptable service;
  - B. Deploy a roof-mounted antenna or other network equipment at the premises to provide requested service;
  - C. Make adjustments at the nearest cell site to provide service;
  - D. Make any other adjustments to network or customer facilities to provide service;
  - E. Offer resold service of carriers that have facilities available to that premises; and/or
  - F. Employ or construct an additional cell site, a cell-extender, or repeater to provide service.
3. Evaluate the costs and benefits of using high-cost universal service support to serve the number of customers requesting service. Where special conditions or special requirements of the customer involve unusual construction or installation costs, the customer may be required to pay a reasonable proportion of such costs as follows:
  - A. One (1) mile of facilities to provide the minimum class of service will be provided at no charge;
  - B. Additional charges will be equal to the difference between the estimated cost of the special type of construction and the estimated cost of standard construction. Charges will include materials, contract services, and loaded labor rates;
  - C. The customer shall bear unusual maintenance costs for the special construction; and
  - D. To assist in defraying construction costs beyond those of a prudent investment by the company, the customer shall be allowed to pay all or a portion of the construction and installation charges through an arrangement agreeable to the company, the customer, and the commission.
4. If there is no reasonable possibility of providing service to the requesting customer, the ~~competitive ETC~~ shall notify the customer and include such information in its ~~quarterly report~~ annual certification documentation to the Commission.

(1113) Each ~~alternative~~ local exchange carrier designated as an ETC shall abide by Chapter 4 CSR 32 of the Commission's rules. Except as otherwise provided in this rule, each CMRS carrier designated as an ETC shall comply with the same requirements that apply to telecommunications companies under 4 CSR 240-32.040, 4 CSR 240-32.050(1)-(3) and (6), 4



CSR 240-32.060 (1), (5)-(10), (12)(H), (15), 4 CSR 240-32.070, 4 CSR 240-32.080 (1)-(4), (5(A)-(D), (5)(H), 4 CSR 240-32.100 (1) and (2), and 4 CSR 240-32.200 by replacing “basic local” or “telecommunications” with CMRS and by replacing all references to wireline services, facilities and/or equipment with the equivalent CMRS service, facility and/or equipment and replacing any reference to “tariff” with “informational filing” consistent with section 15.

(14) Each local exchange carrier designated as an ETC shall continue to submit quarterly quality of service reports to the Commission’s Telecommunications Department consistent with 4 CSR 240-3.550(5) of the commission’s rules.

(1215) Within thirty (30) days of receiving ETC status, ~~the~~ each CMRS carrier designated as an ETC shall make an informational filing with the commission consisting of a complete description of all of its service offerings. Such informational filings will be amended as service offerings are introduced or modified.

(1316) Each ~~competitive~~ ETC shall maintain a record of customer complaints that have been received by the company in a manner that includes, at a minimum: the end-user name; the account number; a description of the complaint; the date the complaint was filed; and, the amount of refund, if any.

(A) If the account number is utilized, a cross-reference with the end-user's name must also be readily available.

(B) Each complaint shall count as a separate report regardless of whether subsequent reports relate to the same physical defect, difficulty, or dissatisfaction with the provision of ~~the~~ CMRS services.

(1417) If an ~~competitive~~ ETC and a customer fail to resolve a matter in dispute, the ~~competitive~~ ETC shall advise the customer of his/her right to file an informal or formal complaint with the commission under 4 CSR 240-2.070.

(1518) An ~~competitive~~ ETC shall acknowledge or respond by fax transmission, e-mail or electronic filing and information system (EFIS) to all commission staff inquiries related to informal complaints as follows:

(A) The company shall acknowledge receipt of inquiries related to denial or discontinuance of service issues within 24 hours;

(B) The company shall acknowledge receipt of inquiries related to all other informal complaints within three (3) business days; such acknowledgment shall include current account status and an estimated time frame for final response;

(C) If the company and Public Service Commission staff have not informally agreed to an extension or a resolution to the informal complaint, the company shall provide a status report on the informal complaint within fifteen (15) days of receiving such inquiry;

(D) The company shall provide, no later than thirty (30) days after receiving such inquiry, the company’s plan and time frame to resolve the informal complaint.

(E) If a formal complaint regarding the same inquiry is filed the company need not respond further to the informal complaint.

(1619) If an competitive ETC and a customer fail to resolve a matter in dispute through the informal complaint process, the Public Service Commission Staff shall advise the customer of his/her right to file a formal complaint with the commission under 4 CSR 240-2.070. Resolution of the complaint may result in revocation of ETC designation.

(1720) Each ETC shall provide customer service contact information online and on billing statements. This requirement also applies to ETCs that use a third party billing agents.

(1821) Each CMRS provider designated as an ETC shall submit to the commission's Telecommunications Department, its staff or the Office of the Public Counsel, upon request, a quarterly a report of its customer complaints as indicated in section (1416) above, and its inability to provide service as indicated in subsection (11)(D) above.

(1921) Each ALEC designated as an ETC shall continue to submit quarterly quality of service reports to the Commission's Telecommunications Department consistent with 4 CSR 240-3.550(5) of the commission's rules.

(20) All CMRS ETC providers shall submit an annual report to the commission on or before April 15 of each year, except as otherwise provided for in this rule.

(A) CMRS ETC providers shall submit their annual reports either on a form provided by the commission or on a computer-generated replica that is acceptable to the commission. Reports being submitted on paper are to be prepared in loose-leaf format and sent to the attention of the secretary of the commission. Computer-generated reports can be submitted through the commission's electronic filing and information system (EFIS). Attempts to substitute forms such as stockholder reports without concurrently submitting official commission forms with appropriate cross-references will be considered noncompliant. All requested information shall be included in the annual report, where applicable, even if it has been provided in a previous annual report.

(B) A CMRS ETC provider that receives a notice from the commission stating that deficiencies exist in the information provided in the annual report shall respond to that notice within twenty (20) days after the date of the notice, and shall provide the information requested in the notice in its response.

(C) If a CMRS ETC provider subject to this rule considers the information requested on the annual report form to be nonpublic information, it must submit both a fully completed version to be kept under seal and a redacted public version that clearly informs the reader that the redacted information has been submitted as nonpublic information to be kept under seal. Submittals made under this section that do not include both versions will be considered deficient. The staff on behalf of the commission will issue a deficiency letter to the company and if both versions of the annual report are not received within twenty (20) days of the notice, the submittal will be considered noncompliant.

(D) In addition to the foregoing, submittals made under this section must meet the following requirements:

1. A cover letter stating that the CMRS ETC provider is designating some or all of the information in its annual report as confidential information, and including the name, phone number and e-mail address (if available) of the person responsible for addressing questions regarding the confidential portions of the annual report, must be submitted with the reports;

2. The cover of each version of the report must clearly identify whether it is the public or nonpublic version;

3. A detailed affidavit that identifies the specific types of information to be kept under seal, provides a reason why the specific information should be kept under seal and states that none of the information to be kept under seal is available to the public in any format must be prominently attached to both versions of the report; and

4. Each page of each version of the report that contains nonpublic information shall be clearly identified as containing such information.

(E) If an entity asserts that any of the information contained in the nonpublic version of the annual report should be made available to the public, then that entity must file a pleading with the commission requesting an order to make the information available to the public, and shall serve a copy of the pleading on the CMRS ETC provider affected by the request. The pleading must explain how the public interest is better served by disclosure of the information than the reason provided by the CMRS ETC provider justifying why the information should be kept under seal. The CMRS ETC provider affected by the request may file a response to a pleading filed under these provisions within fifteen (15) days after the filing of such a pleading. Within five (5) business days after the due date for the filing of the CMRS ETC provider's response to a request filed under these provisions, the general counsel by filing of a pleading will make a recommendation to the commission advising whether the request should be granted.

(F) A CMRS ETC provider that is unable to meet the submission date established in section (1) of this rule may obtain an extension of up to thirty (30) days for submitting its annual report by:

1. Submitting a written request, which states the reason for the extension, to the attention of the secretary of the commission prior to April 15; and

2. Certifying that a copy of the written request was sent to all parties of record in pending cases before the commission where the CMRS ETC provider's activities are the primary focus of the proceedings.

(G) A CMRS ETC provider that is unable to meet the submission date established in section (1) of this rule may request an extension of greater than thirty (30) days for submitting its annual report by:

1. Filing a pleading, in compliance with the requirements of Chapter 2 of 4 CSR 240, which states the reason for and the length of the extension being requested, with the commission prior to April 15; and

2. Certifying that a copy of the pleading was sent to all parties of record in pending cases before the commission where the CMRS ETC provider's activities are the primary focus of the proceedings.

(H) Responses to deficiency notices under the provisions of subsection (20)(B) of this rule, requests for confidential treatment under the provisions of subsection (20)(C) of this rule, pleadings requesting public disclosure of information contained under seal under the provisions of subsection (20)(D) of this rule, and requests for extensions of time under the provisions of

subsections (20)(F) or (20)(G) of this rule may be submitted through the commission's electronic filing and information system (EFIS).

(I) A CMRS ETC provider that does not timely file its annual report, or its response to a notice that its annual report is deficient, is subject to a penalty of one hundred dollars (\$100) for each day that it is late in filing its annual report or its response to a notice of deficiency.

(21) Each ALEC designated as an ETC shall continue to submit annual reports consistent with 4 CSR 240-3.540 of the commission's rules.

(22) Each competitive carrier designated as an ETC shall, within thirty (30) days of a change in the company-designated contacts, either notify the manager of the Telecommunications Department, in writing or by electronic mail, within thirty (30) days of a change in the company-designated contacts or shall update the commission's electronic filing system (EFIS). The notification or update shall include the name(s), address(es) and/or telephone number(s) of the designated individual(s). The contact name(s) provided pursuant to this section shall be the individual(s) primarily responsible for: customer service; repair and maintenance; answering complaints; authorizing and/or furnishing refunds to customers; and informational or tariff filing issues.

(23) All carriers designated as ETCs shall, comply with the Commission's commission's annual certification process by August 15 of each year, submit an affidavit executed by an officer of the Company attesting that federal high-cost support is used consistent with the commission's rules and the Telecommunications Act of 1996. The affidavit will be accompanied by documentation of support received and costs incurred. The commission or its staff may request additional information regarding the annual certification. as outlined in the commission's Order Establishing Certification Procedure in Case No. TO 2002 347, dated July 9, 2002, and as subsequently amended. Questions regarding the appropriate certification process documentation for competitive carriers designated as ETCs should be directed to the Commission's Telecommunications Department.

(24) In addition to the information submitted in Section (23) above, each competitive carrier designated as an ETC must submit to the Telecommunications Department Staff the following information by August 15 of each year.:

(A) Competitive carriers designated as ETCs shall submit Pprogress updates on its five~~two~~-year improvement plan;

(B) All ETCs shall submit Ddetailed information on outages in its network for the past year if not previously submitted in quarterly quality of service reports;

(C) All ETCs shall submit Ddetailed information on how many requests for service from potential customers were unfulfilled for the past year;

(D)The number of complaints for the previous year;

(E)Competitive carriers designated as ETCs shall submit Aa demonstration that the receipt of high-cost support was only used to improve coverage, service quality or capacity in the Missouri service area in which ETC designation was granted and that such support was used in addition to any expenses the competitive carrier would normally incur; and

~~(FE)~~ All ETCs shall submit an affidavit signed by an officer of the company certifying that the competitive ETC continues to comply with the applicable service quality standards as identified in section 12 above and consumer protection rules as identified in section 6 above; and

~~(GF)~~ All competitive carriers designated as ETCs shall submit an affidavit signed by an officer of the company further certifying that the competitive ETC continues to be able to function in emergency situations, continues to offer a local usage plan comparable to that offered by the incumbent LEC in the relevant service areas, and continues to acknowledge that it shall provide equal access to interexchange carriers if all other ETCs in that service area relinquish their designations pursuant to section 214(e)(3) of the Telecommunications Act of 1996 and if so ordered by the commission.

~~(25)~~ All ETCs 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.

~~(2526)~~ All reports required to be submitted to the commission shall be attested to by an officer or authorized agent of the carrier designated as an ETC.

~~(2627)~~ Except as otherwise provided in commission rules, each competitive carrier designated as an ETC governed by this rule shall keep all of its 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 competitive carrier designated as an 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.

~~(2728)~~ All records required by this rule shall be preserved for at least two (2) years.

~~(2829)~~ Each competitive carrier designated as an ETC shall, upon request, promptly furnish such other information related to its designation as an ETC to the commission, its staff or the Office of the Public Counsel as the commission Staff may reasonably request.

~~(2930)~~ Each CMRS carrier designated as an ETC shall file with submit to the Commission an application to a letter reflecting a change to the name and/or change, deletion or addition of a trade name under which the CMRS ETC will be doing business in the state of Missouri.

(A) The request for notification of name change or request for notification of change, addition, or deletion of a trade name shall be accompanied by the following, as applicable:

1. An amended Certificate of Incorporation effecting a change of name;
  2. A Trade Name Report filed with the Secretary of State;
  3. A Withdrawal of Trade Name Report filed with the Secretary of State;
- and/or

4. A Transfer of Trade Name Report filed with the Secretary of State.

(B) A modified informational filing and attestation that the modified informational filing is identical and no revisions are being made, except for the name change or change, addition or deletion of a trade name, to the existing informational filings of the CMRS ETC.

| (3031) ~~Carriers designated as an ETCs~~ shall not self-certify to the Universal Service Administrative Company for receipt of federal universal service funds.

| (3132) ~~Carriers designated as an ETCs~~ shall not willfully make any false entry in the accounts, books of accounts, records or memoranda kept by any corporation, person or public utility, or shall not willfully destroy, mutilate, alter or by any other means or device falsify the record of any such account, book of accounts, record or memoranda, or shall not willfully neglect or fail to make full, true and correct entries of such account, book of accounts, record or memoranda of all facts and transactions appertaining to the business of such corporations, persons or public utilities, or shall not falsely make any statement required to be made to the commission.

| (3233) Allegations of a failure to comply with this rule shall be filed with the commission in the form of a formal complaint pursuant to 4 CSR 240-2.070. Resolution of the complaint may result in revocation of the ~~competitive carrier's~~ ETC designation.

| (3334) The Commission shall not certify, by October 1 of each year, any ETC that fails to comply with these rules.

| (35) All ETCs shall submit to the commission staff, by August 15, 2006, a statement of compliance with 4 CSR 240-3.570. All carriers with requests for ETC designation pending as of the effective date of this rule shall submit, within 30 days of the effective date of the rule, any missing information required by 4 CSR 240-3.570 or a statement that all required information was previously submitted as part of the request for ETC designation.