

John R. Ashcroft

**Secretary of State
Administrative Rules Division**

RULE TRANSMITTAL

Administrative Rules Stamp

Rule Number 4 CSR 240-28.012

Use a "SEPARATE" rule transmittal sheet for EACH individual rulemaking.

Name of person to call with questions about this rule:

Content Morris Woodruff Phone 573-751-2849 FAX 573-526-6010

Email address Morris.woodruff@psc.mo.gov

Data Entry Christine Koenigsfeld Phone 573-751-4256 FAX 573-526-6010

Email address Christine.Koenigsfeld@psc.mo.gov

Interagency mailing address Public Service Commission, 9th Floor Gov. Office Bldg, JC, Mo
TYPE OF RULEMAKING ACTION TO BE TAKEN

☐ Emergency Rulemaking ☐ Rule ☐ Amendment ☐ Rescission ☐ Termination

Effective Date for the Emergency _____

☐ Proposed Rulemaking ☐ Rule ☐ Amendment ☐ Rescission

☐ Rule Action Notice ☐ In Addition ☐ Rule Under Consideration

☐ Request for Non-Substantive Change

☐ Statement of Actual Cost

☒ Order of Rulemaking ☐ Withdrawal ☒ Adopt ☐ Amendment ☐ Rescission

Effective Date for the Order _____

☐ Statutory 30 days OR Specific date _____

Does the Order of Rulemaking contain changes to the rule text? ☐ NO

☒ YES—LIST THE SECTIONS WITH CHANGES, including any deleted rule text:

Sections (1)(C) 1.A and B, and (2)(D)

Small Business Regulatory
Fairness Board (DED) Stamp

JCAR Stamp

SEP 05 2018

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Michael L. Parson

GOVERNOR
STATE OF MISSOURI

August 30, 2018

Mr. Daniel Hall
Public Service Commission
200 Madison Street
PO Box 360
Jefferson City, MO 65102

RE: *Proposed Rulemaking*

Dear Daniel:

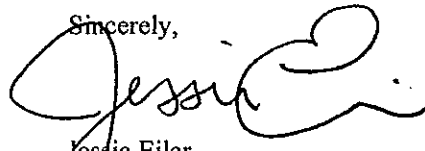
This office has received your proposed amendments, rules and rescissions for the regulations listed below.

- 4 CSR 240-28.010 – Definitions (proposed amendment)
- 4 CSR 240-31.010 – Definitions (proposed amendment)
- 4 CSR 240-28.011 – Certificate of Service Authority and/or Registration (proposed rule)
- 4 CSR 240-28.012 – Annual Reports, Statements of Revenue, and Assessments (proposed rule)
- 4 CSR 240-28.013 – Tariff Filings and Interconnection Agreements (proposed rule)
- 4 CSR 240-28.014 – Network Configuration (proposed rule)
- 4 CSR 240-28.015 – 211 Service (proposed rule)
- 4 CSR 240-28.016 – Telephone Numbering (proposed rule)
- 4 CSR 240-31.011 – Missouri USF Administration (proposed rule)
- 4 CSR 240-31.012 – Missouri USF Assessment (proposed rule)
- 4 CSR 240-31.013 – Missouri USF High Cost Support (proposed rule)
- 4 CSR 240-31.014 – Lifeline and Disabled Programs (proposed rule)
- 4 CSR 240-31.015 – ETC Requirements (proposed rule)
- 4 CSR 240-31.016 – ETC Application Requirements (proposed rule)
- 4 CSR 240-28.020 – General Provisions (proposed rescission)
- 4 CSR 240-28.030 – Certification or Registration Requirements (proposed rescission)
- 4 CSR 240-28.040 – Reporting Requirements (proposed rescission)
- 4 CSR 240-28.050 – Assessment Requirements (proposed rescission)
- 4 CSR 240-28.060 – Service Requirements (proposed rescission)
- 4 CSR 240-28.070 – Tariffs (proposed rescission)
- 4 CSR 240-28.080 – Interconnection Agreements (proposed rescission)
- 4 CSR 240-28.090 – 211 Service (proposed rescission)
- 4 CSR 240-31.020 – Organization, Powers, and Meetings of the Board (proposed rescission)
- 4 CSR 240-31.030 – The MoUSFA (proposed rescission)
- 4 CSR 240-31.040 – Eligibility for Funding – High Cost Areas (proposed rescission)
- 4 CSR 240-31.060 – The MoUSF Assessment (proposed rescission)
- 4 CSR 240-31.090 – Disbursement of MoUSF Funds (proposed rescission)
- 4 CSR 240-31.100 – Review Procedures for Support Payments (proposed rescissions)

- 4 CSR 240-31.110 -- Review of Board and MoUSFA Activities (proposed rescission)
- 4 CSR 240-31.120 -- Lifeline Programs and Disabled Programs (proposed rescissions)
- 4 CSR 240-31.130 -- Eligible Telecommunications Carrier Requirements (proposed rescission)
- 4 CSR 240-37.010 -- General Provisions (proposed rescission)
- 4 CSR 240-37.020 -- Definitions (proposed rescission)
- 4 CSR 240-37.030 -- Thousands-Block Number Pooling (proposed rescission)
- 4 CSR 240-37.040 -- Request for Review of the Decisions of the North American Numbering Plan Administrator or the Thousands-Block Pooling Administrator (proposed rescission)
- 4 CSR 240-37.050 -- Reclamation (proposed rescission)
- 4 CSR 240-37.060 -- Reporting Requirements (proposed rescission)

Executive Order 17-03 requires this office's approval before state agencies release proposed regulations for notice and comment, amend existing regulations, rescind regulations, or adopt new regulations. After our review of this rulemaking, we approve the submission of these amendments, rules and rescissions to the Joint Committee on Administrative Rules and the Secretary of State.

Sincerely,



Jessie Eiler
Deputy Counsel



Commissioners

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John Ashcroft
Secretary of State
Administrative Rules Division
600 West Main Street
Jefferson City, Missouri 65101

Re: 4 CSR 240-28.012 Annual Reports, Statements of Revenue and Assessments

Dear Secretary Ashcroft,

CERTIFICATION OF ADMINISTRATIVE RULE

I do hereby certify that the attached is an accurate and complete copy of the order of rulemaking lawfully submitted by the Missouri Public Service Commission.

Statutory Authority: sections 386.040, 386.250, 386.310, 392.450, and 392.461, RSMo 2016.

If there are any questions regarding the content of this order of rulemaking, please contact:

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Missouri Public Service Commission
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Jefferson City, MO 65102
(573) 751-2849
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Morris L. Woodruff
Chief Regulatory Law Judge

Enclosures

**Title 4 – DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240 – Public Service Commission
Chapter 28 – Communications**

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under sections 386.040, 386.250, 386.310, 392.450, and 392.461 RSMo 2016, the commission adopts a rule as follows:

4 CSR 240-28.012 Annual Reports, Statements of Revenue, and Assessments is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on May 15, 2018 (43 MoReg 983-984). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: The public comment period ended July 2, 2018, and the commission held a public hearing on the proposed rule on July 9, 2018. The commission received timely written comments from AT&T, Missouri Cable Telecommunications Association (MCTA), CenturyLink, Windstream Missouri, Verizon, the Small Telephone Company Group and Missouri Independent Telephone Company Group (STCG), the Missouri Telecommunications Industry Association (MTIA), and the staff of the commission. Whitney Payne, representing the commission's staff; Richard Telthorst, on behalf of MTIA; Brian McCartney, representing STCG; and Craig Johnson representing Chariton Valley Communications, appeared at the hearing and offered comments.

COMMENT #1: MTIA and MCTA note that the commission's current rule, section 28.040(2), which will be rescinded, establishes requirements for the filing of annual reports. Parts of that rule are incorporated into this section by referring interested persons to additional information included on the commission's website. AT&T, MTIA and MCTA are concerned that the proposed rule does not include provisions of the current rule allowing for extensions of time to file those annual reports. They urge the commission to incorporate those provisions into the new rule.

RESPONSE AND EXPLANATION OF CHANGE: The commission's website is a suitable means to provide information and forms to interested persons, but information on a website is not a rule. The procedure for obtaining an extension of time to file an annual report should be included in a rule. The commission will incorporate the applicable provision of section 28.040(2) into this rule.



COMMENT #2: MTIA asks the commission to retain the description of Net Jurisdictional Revenues contained in section 28.040(4) of the commission's current rule.

RESPONSE: The commission believes the description of revenues is appropriately made at the referenced location and on the commission's website and does not need to be included in the text of this rule. The commission will make no change in response to this comment.

COMMENT #3: MTIA notes that subsection 28.012(2)(D) of the proposed rule would allow companies filing for bankruptcy a way to avoid PSC assessment obligations. MTIA believes debtors-in-possession continuing to provide service through a bankruptcy proceeding should not be allowed to avoid their obligation to pay their share of the commission's assessment. MTIA suggests the rule be modified to allow only assessments owed before filing to be avoided.

RESPONSE: The commission has proposed this rule as a means to ensure that it is notified when a telecommunications company has filed for bankruptcy. The rule is not intended to allow such companies a way to avoid its PSC assessment obligations. Those obligations will, of course, be determined by the bankruptcy court, not by the commission. The commission will modify the language of the section to avoid any confusion.

COMMENT #4: MCTA and AT&T ask the commission to retain the existing provisions of 28.040(2)(E), which indicate a company may request confidential status for some or all of its annual report using procedures described in the annual report instructions.

RESPONSE: The commission agrees that companies should be able to request confidential status for their annual reports. However, it is not necessary to include that provision in the text of the rule. The commission has a general procedural rule dealing with that situation, 4 CSR 240-2.315, and companies can be informed of those procedures through the instructions listed on the commission's website. The commission will make no changes in response to this comment.

4 CSR 240-28.012 Annual Reports, Statements of Revenue and Assessments.

(1) Annual Reports and Statements of Revenues– The commission's website contains forms, deadlines, and instructions for annual reports, including how to address common revenue reporting issues.

(C) The deadline for a company to submit a completed annual report is April 15.

1. A company that is unable to meet the April 15 submission date deadline may request an extension of this deadline by filing a letter through EFIS. The letter shall include an explanation for failing to meet the deadline and the date by which the annual report will be filed.

A. If a request for extension is made before the filing deadline, a thirty (30) day extension will automatically be granted.

B. Requests for an extension greater than thirty (30) days or requests after the filing deadline for an extension will be handled on a case-by-case basis depending on the explanation contained in the request.

(2) Assessments— Information about assessments may be found on the commission's website or as otherwise indicated below.

(D) If a company has filed for bankruptcy, the company must notify the commission. Notice can be in form of a letter filed into EFIS as a non-case related submission indicating the date of filing for bankruptcy, bankruptcy court, case number and chapter number. A letter must be filed under the same tracking number when the company emerges from bankruptcy.