

**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) Commercial mobile radio service (CMRS) provider provides service as identified in 47 CFR Parts 20 and 24.

(C) Eligible telecommunications carrier (ETC) is a carrier designated as such by the Missouri Public Service Commission pursuant to 47 U.S.C. 214(e) in order to receive universal service support. Eligible telecommunications carrier (ETC) shall refer to alternative local exchange carriers, incumbent local exchange carriers and commercial mobile radio service providers.

(D) Incumbent local exchange telecommunications company is as defined in section 386.020(22), RSMo.

(E) Reasonable request for service refers to a request for service of a type and quantity that is not in excess of service which is normally requested by like customers and is for service at a location within the carrier's designated service area.

(F) Support is defined as directly or indirectly receiving financial benefits from either the federal universal service fund and/or Missouri universal service fund. Indirect support may include resale arrangements whereby a reseller may benefit from receiving a resale discount or lower invoice from a wholesale provider for a reseller's participation in the Lifeline program.

(G) The term "support is intended" is defined consistent with the Telecommunications Act which outlines the following principles:

1. Quality and rates—quality services should be available at just, reasonable, and affordable rates.

2. Access to advanced services—access to advanced telecommunications and information services should be provided in all regions of the state.

3. Access in rural and high-cost areas—consumers in all regions of Missouri, including those in rural, insular and high-cost areas will have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas;

(2) Application Requirements for ETC Designation.

(A) Any application for ETC designation, including ETC applications solely seeking Lifeline and LinkUp support, must contain the following information:

1. All application requirements identified in 4 CSR 240-2.060.
2. Identify any individual or entity having a 10% or more ownership interest in the company.
3. Identify company management, officers and directors, or any person exerting managerial control.
4. Identify any affiliated companies and any companies with any common ownership or management with the applicant. This shall include any company that performs administrative or sales functions for the applicant. For any identified company indicate whether the company has ever received funds from the federal universal service fund or any state universal service fund.
5. A statement describing any disciplinary action taken by the Federal Communications Commission or state regulatory agency in which the company, or any person or entity listed in subparagraphs 2 and 3, have been found to have violated any law, regulation or tariff provision, or settled a matter in which an assertion of such a violation was made.
6. A statement confirming service will comply with service provisioning requirements identified in 4 CSR 240-3.570(3)(A), (B) and (C).
7. A demonstration of how service will be provided using its own facilities or a combination of its own facilities and the resale of another carrier's services. Include a diagram of how local, directory assistance and interstate calls will be routed using the owned facilities of the applicant as well as any underlying carrier.
8. An explanation of how the company intends to provide service throughout the proposed service area including areas whereby the company lacks facilities or network coverage.
9. A demonstration of how the company will ensure service will be provided in a timely manner to requesting customers.
10. A demonstration of the carrier's ability to remain functional in emergency situations, including a demonstration that the carrier has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities and is capable of managing traffic spikes resulting from emergency situations. A demonstration that the commission's grant of the applicant's request for ETC designation would be consistent with the public interest, convenience and necessity.
11. A demonstration that the commission's grant of the applicant's request for ETC designation would be consistent with the public interest, convenience and necessity.
12. A commitment to advertise the availability of services and charges therefore using media of general distribution throughout the ETC service area including 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.
13. A statement that the carrier will satisfy consumer privacy protection standards as provided in 47 CFR 64 Subpart U and service quality standards as applicable.
14. A statement that the requesting carrier acknowledges it shall provide equal access pursuant to 4 CSR 240-32.100(3) and (4) if all other ETCs in that service area relinquish their designations pursuant to section 214(e) of the Telecommunications Act of 1996.

15. 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 Missouri Universal Service Fund (MoUSF) discounts pursuant to 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.

16. Identify the proposed service area.

17. A commitment to maintain a record of customer complaints as described in 4 CSR 240-3.570(4)(E).

18. A statement confirming a commitment to remit required, collected 911 revenues to local authorities.

19. A commitment to notify the Missouri Public Service Commission of any changes to company contact information.

20. If the ETC applicant is already certificated by the Missouri Public Service Commission, a statement that the company is compliant with the following obligations:

A. Payment to the PSC Assessment.

B. Payment to the Missouri USF.

C. Payment to the Relay Missouri Fund.

D. Submission of an Annual Report to the Missouri Public Service Commission.

21. If a company has sought and obtained a waiver of any ETC requirement from the Federal Communications Commission then provide a copy of the FCC's decision.

22. Each request for ETC designation by a CMRS provider shall include the following information:

A. 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.

B. A copy of the consumer code for wireless service currently recognized by CTIA to which it commits to abide.

C. A commitment to 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 thirty (30) days of the change(s).

D. An informational filing and/or link to a publically accessible website that provides a complete description of all of its service offerings. If ETC status is granted and the CMRS provider has made an informational filing then the filing will be filed within the commission's electronic filing and information system.

E. A commitment to amend the company's informational filing and/or update the company's website as service offerings are introduced or modified.

23. Identify any pending or completed state or federal proceedings concerning the company's or any affiliated company's improper participation in the universal service fund program. Provide copies of any judgments or decisions against the company or affiliated company.

24. A commitment to not collect a deposit from a low-income subscriber if the consumer voluntarily elects toll limitation service.

25. A commitment to not charge a low-income subscriber a monthly number portability charge.

26. An explanation of the monthly support the applicant intends to seek from federal and state universal service funds for providing service to a low-income subscriber. This explanation should breakdown support into Tier One, Tier Two and Tier Three as identified in FCC rules. If the applicant intends to seek Tier Three support by the carrier's own contribution rather than from the Missouri USF then ensure the explanation addresses this intent.

27. An explanation of the nonrecurring or LinkUp support the applicant intends to seek from the federal universal service fund for initiating service to a low-income subscriber. This explanation must also identify the nonrecurring charge applied to a subscriber not participating in the low-income program.

28. A copy of the company's proposed Lifeline/LinkUp application form.

29. An explanation of how the company will verify the following information for each low-income applicant:

A. Customer's identity is correct;

B. Customer's primary residence is accurate; and

C. Customer does not already participate in the low-income program.

30. A demonstration of how the company will ensure an applicant submits proof of eligibility and a company official will verify seeing such proof.

31. A commitment to comply with all requirements identified in 4 CSR 240-31.050 concerning eligibility for funding – low-income customers and disabled customers.

32. An explanation of how the company intends to annually verify a customer's continued eligibility for the low-income program.

33. Copies of the company's bill demonstrating clear bill design for Lifeline subscribers and other subscribers. Alternatively if a company does not intend to submit a bill to a Lifeline subscriber then provide the following information:

A. An explanation of the process for determining if the customer is actually using the service; and

B. An explanation of the process for terminating the customer's enrollment in the Lifeline program if it appears the customer is not using the service. Include in this explanation specific time frames.

(B) Additional Application Requirements for ETC Applicants Seeking High-Cost Support:

1. A description of the intended use of the high-cost support, including detailed descriptions of any construction plans with start and end dates, populations affected by construction plans, existing tower site locations for CMRS cell towers, and estimated budget amounts;

2. Provide a two (2)-year plan demonstrating, with specificity, that high-cost universal service support shall only be used for the provision, maintenance and upgrading of facilities and services for which the support is intended in the Missouri service area in which ETC designation was granted. The two (2)-year plan shall include a demonstration that universal service support shall be used to improve coverage, service quality or capacity on a wire center-by-wire center basis throughout the Missouri service area for which the requesting carrier seeks ETC designation including:

A. A detailed map of coverage area before and after improvements and in the case of CMRS providers, a map identifying existing tower site locations for CMRS cell towers;

B. The specific geographic areas where improvements will be made;

C. The projected start date and completion date for each improvement;

D. The estimated amount of investment for each project that is funded by high-cost support;

E. The estimated population that will be served as a result of the improvements;

F. If an applicant believes that service improvements in a particular wire center are not needed, it must explain its basis for this determination and demonstrate how funding will otherwise be used to further the provision of supported services in that area; and

G. A statement as to how the proposed plans would not otherwise occur absent the receipt of high-cost support and that such support will be used in addition to any expenses the ETC would normally incur;

3. A reasonable plan outlining the method for handling unusual construction or installation charges.

(3) Service Requirements of ETCs.

(A) ETCs shall develop a bill design that can be easily interpreted by their customers and clearly sets forth charges in compliance with federal billing requirements.

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

(C) Service Provisioning Commitment.

1. ETC shall make available to each end-user subscribing to its supported services within its ETC designated service area the following service features:

A. Dual tone multi-frequency signaling or its functional equivalent;

B. Single-party service or its functional equivalent;

C. Access to emergency services;

D. 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 implemented enhanced 911 systems;

E. Access to interexchange service;

F. Access to telecommunications relay services by dialing 711;

G. Access to Directory Assistance service;

H. Access to operator services; and

I. Toll limitation and/or blocking for qualifying low-income consumers.

2. ETCs shall publicize the construction of all new facilities that will enhance services in unserved or underserved areas so that consumers are aware of the improved service in the area.

3. ETCs shall extend their networks to serve new customers upon a reasonable request. ETCs shall take the following steps, as applicable, to respond to all such reasonable requests for service within its ETC service area.

A. If a request comes from a customer residing within the ETC service area where the ETC already provides service, the ETC shall immediately provide service using its standard customer equipment.

B. If a request comes from a customer residing within the ETC service area where the ETC does not already provide service, the ETC shall take reasonable steps to provide acceptable service at no cost to the customer, including: modifying or replacing customer equipment; deploying a roof-mounted antenna or other network equipment at the premises; making adjustments at the nearest cell site or to other network or customer facilities; employing, leasing or constructing an additional cell site, a cell-extender, repeater or other similar equipment; or offering resold service of other carriers that have facilities available to that premises.

C. Where special conditions or special requirements of the customer involve unusual construction or installation costs, the customer may be required to pay a reasonable portion of such costs in accordance with the plan outlining the method for handling unusual construction or installation charges approved by the commission at the time of designation as an ETC.

D. If there is no possibility of providing service to the requesting customer, the ETC shall notify the customer and include such information in its annual certification documentation to the commission.

(D) Each CMRS carrier designated as an ETC shall maintain an informational filing with the commission or a publically accessible website consisting of a complete description of all of its service offerings. Such informational filings or website will be amended as service offerings are introduced or modified.

(4) Annual Certification Filing Requirements.

(A) Any company receiving high-cost support and/or low-income support shall be required to make an annual filing with the Commission by August 15 of each year. The requirements for this annual filing must contain the required information identified in subsections B and/or C depending on the type of support received by the company. If a company receives both high-cost and low-income support then the company may make one filing whereby duplicate requirements identified in both subsections are addressed only once.

(B) Filing Requirements Applicable to All ETCs Receiving High Cost Support:

1. An ETC shall submit an affidavit executed by an officer of the company attesting to the following statements:

A. Federal high-cost support is used consistent with the commission's rules and the Telecommunications Act of 1996.

B. The company continues to comply with all ETC service requirements as identified in 4 CSR 240-3.570(3)(A), (B) and (C).

C. Costs incurred and/or estimated budget/investment amounts were no greater than necessary to provide consumers in the ETC's service area access to telecommunications and information services that are reasonably comparable to those services provided in urban areas.

D. The company's service can remain functional in emergency situations.

E. Acknowledge the company shall provide equal access pursuant to 4 CSR 240-32.100(3) and (4) if all other ETCs in that service area relinquish their designations pursuant to section 214(e)(3) of the Telecommunications Act of 1996.

F. The company continues to offer a local usage plan comparable to that offered by the incumbent local exchange telecommunications carrier in the relevant service area (if applicable).

G. If a wireless ETC: The company continues to comply with the approved consumer code for wireless service as recognized by the Cellular Telecommunications and Internet Association.

H. All supporting documentation and additional information submitted in the company's certification filing is accurate.

2. A narrative discussing construction and maintenance projects using high-cost support received by the company or impacting future high-cost support received by the company. If possible provide a map identifying the area(s) affected by any new construction. This narrative shall include the following information:

A. Construction project(s) for the past 2 years. Describe any relevant construction project(s) along with budget amounts.

B. New construction project(s) planned for the upcoming year. Identify the anticipated budget for each relevant project.

C. Maintenance: A general description of any on-going maintenance that is supported by high-cost funding, if applicable.

3. Number of unfilled service requests during the past twelve months.

4. Number and description of customer complaints received during the past twelve months.

5. A demonstration the company is providing adequate service. This demonstration should address the following service criteria:

A. Responding to service requests in a timely manner.

B. Responding to out-of-service requests in a timely manner.

C. Number of trouble reports.

6. Identify the total amount of high-cost support received by the company for the prior calendar year.

7. A demonstration of the status and availability of the company's broadband service.

8. Identify the applicable study area code(s) of the company's high-cost service area in Missouri.

9. If an ETC serves both rural and non-rural areas then the company shall provide rate information demonstrating the company's residential rates in rural areas are less than the FCC's most recent safe harbor nationwide urban benchmark rate.

10. If the Commission established a special condition(s) for a company's ETC designation then the company shall provide specific evidence of the company's continued compliance with the special condition(s).

11. The commission or its staff may request additional information regarding the annual certification.

12. Questions regarding the appropriate documentation should be directed to the commission's Telecommunications Department.

(C) Filing Requirements Applicable to ETCs Receiving Low-Income Support:

1. An ETC shall submit an affidavit executed by an officer of the company attesting to the following statements:

A. The company continues to comply with all ETC service requirements as identified in 4 CSR 240-3.570(3)(A), (B) and (C).

B. The company's service can remain functional in emergency situations.

C. Acknowledge the company shall provide equal access pursuant to 4 CSR 240-32.100(3) and (4) if all other ETCs in that service area relinquish their designations pursuant to section 214(e)(3) of the Telecommunications Act of 1996.

D. The company continues to offer a local usage plan comparable to that offered by the incumbent local exchange telecommunications carrier in the relevant service area (if applicable).

E. If a wireless ETC:

i. The company continues to comply with the approved consumer code for wireless service as recognized by the Cellular Telecommunications and Internet Association.

ii. The company continues to maintain an informational filing with the MoPSC or maintain a publically accessible website describing all services.

F. The company uses a MoUSF Board approved Lifeline application form.

G. The company requires Lifeline applicants to submit proof of eligibility.

H. The company has conducted an annual verification process within the past twelve months to ensure a Lifeline subscriber continues to remain eligible for the Lifeline program. Subscribers failing to respond are terminated from the Lifeline program.

I. All supporting documentation and additional information submitted in the company's certification filing is accurate.

2. Explain the company's annual verification process used to ensure a Lifeline customer continues to remain eligible for the Lifeline program. Provide results from the company's most recent annual verification efforts. Identify the time frame the company conducted this verification.

3. Identify the number of complaints regarding the company's Lifeline service offering during the past twelve months and explain the issue(s) and how the company resolved the complaints.

4. Indicate if the administrator of the federal universal service fund has conducted an audit of the company's compliance with Lifeline program requirements. If so, provide a copy of the audit results and describe what action, if any, the company is taking to address any concerns.

5. Identify the number of Lifeline subscribers served by your company for each month during the last twelve months.

6. Describe the company's methods of advertising Lifeline service in Missouri during the past twelve months.

(5) Additional Requirements.

(A) ETCs shall not self-certify to the Universal Service Administrative Company for receipt of federal universal service funds.

(B) ETCs shall not willfully make any false entry in any business record of any kind kept by it, nor shall it willfully destroy, mutilate, alter or by any method falsify any such record, nor shall it willfully neglect or fail to make full, true and correct entries in such records of all facts and transactions appertaining to its business, nor shall it falsify any statement to the commission.

(C) Allegations of 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 ETC designation.

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

(E) An application for ETC designation shall be deemed to be acceptance of Missouri Public Service Commission jurisdiction over any issues related to ETC designation and status and USF funding and acceptance of additional rules made applicable to that ETC.

(F) Except as otherwise provided in commission rules, ETCs shall keep all 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 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.

(G) Staff shall have the authority to conduct audits of ETCs to ensure compliance with commission and Federal Communications Commission universal service rules and to monitor and verify the validity and accuracy of ETC data.

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

(I) A company shall respond in a timely manner to requests by the commission staff for any additional information relevant to demonstrating compliance with obligations associated with high-cost support or low-income support.

(J) Any ETC shall provide notice to the commission of a change to the company's name. Notice shall comply with name change filing requirements identified in 4 CSR 240-2.060(5).

AUTHORITY: sections 386.040, 386.250, 392.451 and 392.470, RSMo 2000. Original rule filed Oct. 31, 2005, effective June 30, 2006. Amended: Filed Aug. 28, 2007, effective March 30, 2008. Filed September X, 2011. *Original authority: 386.040, RSMo 1939; 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996; 392.451, RSMo 1996; and 392.470, RSMo 1987.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five-hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file comments in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Steven C. Reed, Secretary of the Commission, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the Commission's offices on or before _____, and should include a reference to Commission Case No. TX-2011-0415. Comments may also be submitted via a filing using the Commission's electronic filing and information system at <<http://www.psc.mo.gov/efis.asp>>. A public hearing regarding this proposed rule is scheduled for _____ at 10:00 a.m. in the commission's offices in the Governor Office Building, 200 Madison Street, Room 305 Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or

testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 (voice) or Relay Missouri at 711.