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**Rules of**  
**Department of Economic**  
**Development**  
**Division 240—Public Service Commission**  
**Chapter 33—Service and Billing Practices for**  
**Telecommunications Companies**

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**Title 4—DEPARTMENT OF  
ECONOMIC DEVELOPMENT  
Division 240—Public Service  
Commission  
Chapter 33—Service and Billing  
Practices for Telecommunications  
Companies**

**4 CSR 240-33.010 General Provisions**

*PURPOSE: This rule describes in general terms the provisions of this chapter.*

(1) This chapter applies to all telecommunications companies subject to the jurisdiction of the Missouri Public Service Commission.

(2) A telecommunications company shall not discriminate against a customer or prospective customer for exercising any right granted by any commission rule.

(3) A telecommunications company may adopt rules governing its relations with customers and prospective customers which are not inconsistent with this chapter. The rules shall be part of a telecommunications company's tariffs.

(4) All telecommunications companies shall be in compliance with this chapter within six (6) months after the effective date of this rule.

*AUTHORITY: sections 386.040 and 386.250, RSMo 2000 and 392.200, RSMo Supp. 2003.\* Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Rescinded and readopted: Filed Aug. 26, 1999, effective April 30, 2000. Amended: Filed Jan. 28, 2004, effective Sept. 30, 2004.*

*\*Original authority: 386.040, RSMo 1939; 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996; and 392.200, RSMo 1939, amended 1987, 1988, 1996, 2003.*

**4 CSR 240-33.020 Definitions**

*PURPOSE: This rule defines various terms that are used in this chapter.*

(1) Access line is the line associated with each service location to which a unique telephone number is assigned.

(2) Advance payment is money received by a telecommunications company from a customer for the purpose of securing payment of future charges accrued by a customer.

(3) Basic local telecommunications service is basic local telecommunications service as defined in section 386.020(4), RSMo 2000.

(4) Bill is a written or electronic demand for payment for service or equipment and the taxes, assessments, and franchise fees related thereto.

(5) Bill insert or insert is a written or electronic notice which is enclosed with or attached to a bill.

(6) Billing period is a normal usage period of not less than twenty-eight (28) nor more than thirty-one (31) days.

(7) Casual calling customer is a customer that accesses the telephone network by a dial around pattern such as 10-10-XXX or 101-XXXX.

(8) Complaint is a complaint as defined in 4 CSR 240-2.070.

(9) Customer is any individual that accepts financial and other responsibilities in exchange for telecommunications service.

(10) Cyclical billing results when the bill is rendered on or about the same day of each month.

(11) Delinquent account is an account which has undisputed charges that are not paid in full by the due date.

(12) Deposit is a money advance to a telecommunications company for the purpose of securing payment for telecommunications services.

(13) Discontinuance of service or discontinuance is a cessation of service not requested by a customer.

(14) Guarantee is a written promise from a responsible party to assume liability.

(15) In dispute is any matter regarding a charge or service which is the subject of an unresolved inquiry.

(16) Inquiry is any written, electronic or oral comment or question regarding a charge or service.

(17) Letter of agency is a letter or other document sent by a customer to a telecommunications company authorizing the telecommunications company to change the telecommunications service provider for that customer.

(18) New customer is any customer who has no prior service history with the telecommunications company with whom service is being requested.

(19) Operator services is operator services as defined in section 386.020(37), RSMo 2000.

(20) Passcode is a valid password or personal identification number that must be entered to access toll services.

(21) Pay telephone is a coin or non-coin telephone installed for use by the general public from which calls can be paid for at the time they are made by means of coins, tokens, credit cards, debit cards or a billing to an alternate number.

(22) Preferred payment date plan is a plan in which the due date for the charges stated on a bill is the same date in each billing period as selected by the customer.

(23) Presubscribed customer is any customer of record of the telecommunications company.

(24) Prospective customer is any individual with whom or by whom service is being requested.

(25) Rendition of a bill is the date a bill is mailed, posted electronically or otherwise sent to a customer.

(26) Settlement agreement is an agreement between a customer and a telecommunications company which resolves any matter in dispute between the parties or provides for the payment of undisputed charges over a period longer than the customer's normal billing period.

(27) Tariff is a statement by a telecommunications company that sets forth the services offered by that company, and the rates, terms and conditions for the use of those services.

(28) Telecommunications company is a telephone corporation as defined in section 386.020(51), RSMo 2000.

(29) Termination of service or termination is a cessation of service requested by a customer.

(30) Traffic aggregator is an entity that provides transient customer access to telecommunications services, i.e., a hotel owner or a payphone owner.

(31) Transient customer is a customer that accesses telecommunications services



through the use of a traffic aggregator such as payphones or hotels.

*AUTHORITY: sections 386.040 and 386.250, RSMo 2000 and 392.200, RSMo Supp. 2003.\* Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Rescinded and readopted: Filed Aug. 26, 1999, effective April 30, 2000. Amended: Filed Jan. 28, 2004, effective Sept. 30, 2004.*

*\*Original authority: 386.040, RSMo 1939; 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996; and 392.200, RSMo 1939, amended 1987, 1988, 1996, 2003.*

#### 4 CSR 240-33.030 Minimum Charges Rule (Rescinded September 30, 2004)

*AUTHORITY: sections 386.040, 386.250 and 392.200, RSMo 1986. Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Rescinded: Filed Jan. 28, 2004, effective Sept. 30, 2004.*

#### 4 CSR 240-33.040 Billing and Payment Standards for Residential Customers

*PURPOSE: This rule establishes billing and payment standards to be observed by telecommunications companies and residential customers in resolving questions regarding these matters so that reasonable and uniform standards exist for billing and payment practices for all telecommunications companies.*

(1) A telecommunications company, when discussing regulated service plans and packages with customers and/or potential customers, shall clearly identify the exact name and rates associated with that plan or package as advertised and as tariffed pursuant to 4 CSR 240-3.545(8)(G)1.

(2) A telecommunications company, after the initial bill for new service is rendered, shall render a bill during each billing period except when the bill has a "00" balance.

(3) Except where otherwise authorized by these rules, a telecommunications company may render bills on a cyclical basis if the bill is rendered on or about the same day of each month or as otherwise agreed to by the customer.

(4) A company proposing to increase rates for a regulated telecommunications service must provide at least ten (10) days advance written notice, or thirty (30) days advance written notice in the case of a small telephone company as defined in section 392.230.5, RSMo,

to affected customers with whom the company has an on-going business relationship. This requirement includes written notification to a presubscribed customer if a company proposes to increase rates for any service available to the presubscribed customer. Increases in billing increments are considered rate increases and are subject to section 392.500, RSMo. Written notification must be provided to the presubscribed customer for services available to that presubscribed customer but billed to another party such as collect calls or calls billed to a third number. Bill inserts, bill messages, electronic communications to customers that have authorized receipt of electronic notification, and direct mailings are acceptable forms of customer notice. Written notification is not required if the affected service with the proposed rate increase regularly announces the applicable rate prior to each time the customer uses the service. Written notification is also not required if the affected service is solely provided to the transient or casual calling customer.

(5) If a telecommunications company does not expressly offer a preferred payment date plan, a customer shall have at least twenty-one (21) days from the rendition of a bill to pay the charges stated. If the charges remain unpaid for twenty-one (21) days from rendition of the bill such charges will be deemed delinquent.

(6) If a telecommunications company has a preferred payment date plan which it has expressly offered to all its customers, the charges are due on or before the due date under the plan. Charges not paid by the due date may be deemed delinquent.

(7) A telecommunications company may assess a penalty charge upon a delinquent account. Such charge shall be specifically stated in the company's tariff.

(8) Every bill shall clearly state—

(A) The number of access lines for which charges are stated;

(B) The beginning or ending dates of the billing period for which charges are stated;

(C) A statement of the date the bill becomes delinquent if not paid;

(D) Penalty fees and advance payments, if any;

(E) The unpaid balance, if any;

(F) The amount due for basic local service or the packaged rate if basic local service is bundled with other services in a package;

(G) An itemization of the amount due for all other regulated or nonregulated services including the date and duration (in minutes or

seconds) of each toll call if such service is provided as an individual service;

(H) The amount due for all other regulated or nonregulated services offered at a packaged rate and an itemization of each service included in the package;

(I) An itemization of the amount due for taxes, franchise fees and other fees and/or surcharges which the telecommunications company, pursuant to its tariffs, bills to customers;

(J) The total amount due;

(K) A toll free telephone number where inquiries and/or dispute resolutions may be made for each company with charges appearing on the customer's bill;

(L) The amount of any deposit, advance payments and/or interest accrued on a deposit which has been credited to the charges stated; and

(M) Any other credits and charges applied to the account during the current billing period.

(9) The amount of any deposit held by the company and the interest accrual rate shall be stated on the first bill for which a customer received service and on the last bill for which the customer received service.

(10) During the first billing period in which a customer receives service, a customer must receive a bill insert or other written notice that contains an itemized account of the charges for the equipment and service for which the customer has contracted.

*AUTHORITY: sections 386.040 and 386.250, RSMo 2000 and 392.200, RSMo Supp. 2003.\* Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Amended: Filed Dec. 31, 1979, effective Sept. 2, 1980. Rescinded and readopted: Filed Aug. 26, 1999, effective April 30, 2000. Amended: Filed Jan. 28, 2004, effective Sept. 30, 2004.*

*\*Original authority: 386.040, RSMo 1939; 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996; and 392.200, RSMo 1939, amended 1987, 1988, 1996, 2003.*

#### 4 CSR 240-33.050 Deposits and Guarantees of Payment for Residential Customers

*PURPOSE: This rule establishes uniform standards dealing with the application and requirements of deposits and guarantee of payment so that reasonable and uniform standards exist regarding deposits and guarantees required by telecommunications companies.*



(1) A telecommunications company may require a deposit or guarantee as a condition of new service. The deposit may be required prior to and no more than thirty (30) calendar days after the telecommunications company actually provides service as stated in the company's tariff.

(2) A telecommunications company may require a deposit or guarantee as a condition of continued service under either of the following circumstances:

(A) The customer has delinquent charges in two (2) out of the last twelve (12) billing periods. A telecommunications company, with respect to each customer, shall maintain a record of all charges which have become delinquent within the last twelve (12) billing periods; or

(B) The customer has had service discontinued under 4 CSR 240-33.070(1)(A) or (B) at any time during the preceding twelve (12) billing periods.

(3) No deposit, guarantee, additional deposit nor additional guarantee shall be required by a telecommunications company because of race, sex, creed, national origin, marital status, age, number of dependents, source of income, disability or geographical area of residence.

(4) A deposit shall be subject to the following terms:

(A) It shall not exceed estimated charges for two (2) months' service based on the average bill during the preceding twelve (12) months, or, in the case of new applicants for service, the average monthly bill for new subscribers within a customer class;

(B) It shall bear interest at a rate which is equal to one percent (1%) above the prime lending rate as published in the *Wall Street Journal*. This rate shall be adjusted annually on December 1 using the prime lending rate, as published in the *Wall Street Journal* on the last business day of September of each year, plus one percent (1%). The interest shall be credited annually upon the account of the customer or paid upon the return of the deposit, whichever occurs first. Interest shall not accrue on any deposit after the date on which a reasonable effort has been made to return it to the customer. Records shall be kept of efforts made to return a deposit;

(C) Upon discontinuance or termination, it shall be credited, with accrued interest, to the charge stated on the final bill and the balance, if any, shall be returned to the customer within twenty-one (21) days of the rendition of such final bill;

(D) Upon satisfactory payment of all undisputed charges during the last twelve (12) billing periods, it shall with accrued interest be promptly refunded or credited against charges stated on subsequent bills. A telecommunications company may withhold refund of a deposit pending the resolution of a dispute with respect to charges secured by such deposit;

(E) A telecommunications company shall maintain records which show the name of each customer who has posted a deposit, the current address of such customer, the date and amount of deposit, the date and amount of interest paid and the earliest possible refund date;

(F) A telecommunications company shall upon request provide within ten (10) days a receipt that contains the following information:

1. Name of customer;
2. Address where the service for which the deposit is required will be provided;
3. Place where deposit was received or a designated code which identifies the location;
4. Date when the deposit was received;
5. Amount of the deposit; and
6. The terms which govern retention and refund of the deposit;

(G) A telecommunications company shall maintain a record of the deposit refunded and interest paid on such deposit for a period of at least two (2) years after the refund is made; and

(H) A telecommunications company shall permit a customer to post a deposit required as a condition of continued service in two (2) equal monthly installments or as otherwise agreed upon. A company may bill these installments as a line-item on customer bills.

(5) In lieu of a deposit a telecommunications company may accept a written guarantee. The guarantee shall not exceed the amount of a cash deposit that the telecommunications company could request under this section.

(6) A guarantor shall be released upon satisfactory payment of all undisputed charges during the last twelve (12) billing periods. Payment of a charge is satisfactory if received prior to the date upon which the charge becomes delinquent, provided it is not in dispute. All telecommunications companies shall provide to the commission upon request credit criteria and screening procedures, and standardized record keeping and verification procedures for uncollectible accounts.

(7) A telecommunications company may request an advance payment for the limited purpose of securing payment of installation

charges, if applicable for that customer, and estimated charges for one (1) month of services requested by the customer unless a different amount is otherwise specified in the telecommunications company's tariff.

*AUTHORITY: sections 386.040, RSMo 1994 and 386.250 and 392.200, RSMo Supp. 1998.\* Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Amended: Filed Dec. 31, 1979, effective Sept. 2, 1980. Rescinded and readopted: Filed Aug. 26, 1999, effective April 30, 2000.*

*\*Original authority: 386.040, RSMo 1939; 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996; and 392.200, RSMo 1939, amended 1987, 1988, 1996.*

#### 4 CSR 240-33.060 Residential Customer Inquiries

*PURPOSE: This rule establishes procedures to be followed when residential customers make inquiries of telecommunications companies so that such inquiries are handled in a reasonable manner. Additional requirements pertaining to this subject matter are also found at 4 CSR 240-3.555.*

(1) All bills shall clearly identify each company name associated with each toll free number the customers will be calling for billing inquiries and/or to cancel their previously granted consent to certain services that will be charged on the telephone bill.

(2) A telecommunications company shall establish personnel procedures which ensure that personnel shall be available during normal business hours to accept customer inquiries within a reasonable time after such inquiries are made by telephone or in person. Within a reasonable time after accepting such an inquiry, a telecommunications company will make available appropriate personnel to handle the inquiry. A telecommunications company shall provide a toll-free telephone number for customer inquiries.

(3) Upon request of a customer by verbal request, by electronic communications or by writing, all local telecommunications carriers shall restrict all direct dialed (i.e. 1+ dialed) 900 numbers from that customer's number.

(4) Upon request of a customer by verbal request, by electronic communications or by writing, the telecommunications carrier providing inmate calling service to state correctional facilities shall restrict all calls from inmates in state correctional facilities to that





customer's number where technically feasible. This restriction does not apply to administrative lines at the correctional facilities.

(5) Upon request of a customer by verbal request, by electronic communications or by writing, all interexchange telecommunications carriers shall restrict all toll calls without a valid passcode from that customer's number where technically feasible.

(6) Upon request of a customer by verbal request, by electronic communications or by writing, and where technically feasible, local telecommunications carriers shall restrict all calls using a dialing pattern such as 10-10-XXX or 101-XXXX from that customer's number.

(7) Customers shall be notified of the rights in sections (3), (4), (5) and (6) above at the time of establishing service, through a statement on the customer's first bill or through a welcome letter. Additional notice shall be provided annually thereafter by bill insert, statement on customer bills or annually in the telephone directory. A customer shall be notified of the restriction option(s) in section(s) (3), (4), (5) or (6) above each time that customer notifies a telecommunications carrier or its billing agent that the customer's bill contains unauthorized charges related to the corresponding section(s) above.

*AUTHORITY: sections 386.040 and 386.250, RSMo 2000 and 392.200, RSMo Supp. 2003.\* Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Rescinded and readopted: Filed Aug. 26, 1999, effective April 30, 2000. Amended: Filed Aug. 16, 2002, effective April 30, 2003. Amended: Filed Jan. 28, 2004, effective Sept. 30, 2004.*

*\*Original authority: 386.040, RSMo 1939; 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996; and 392.200, RSMo 1939, amended 1987, 1988, 1996, 2003.*

#### 4 CSR 240-33.070 Discontinuance of Service to Residential Customers

*PURPOSE: This rule prescribes the conditions under which service to a residential customer may be discontinued and establishes procedures to be followed by telecommunications companies and residential customers regarding these matters so that reasonable and uniform standards exist for the discontinuance of service.*

(1) Telecommunications service may be discontinued for any of the following reasons:

(A) Nonpayment of a delinquent charge except as limited by sections (2), (4) and (5) of this rule;

(B) Failure to post a required deposit or guarantee;

(C) Failure to comply with terms of a settlement agreement;

(D) Refusal after reasonable notice to permit inspection, maintenance or replacement of telecommunications company equipment;

(E) Material misrepresentation of identity in obtaining telecommunications company service; or

(F) As provided by state or federal law.

(2) Basic local telecommunications service may not be discontinued for customer nonpayment of a delinquent charge for other than basic local telecommunications services. The failure to pay charges not subject to commission jurisdiction shall not constitute cause for a discontinuance of basic local telecommunication service. Nonpayment of the Missouri Universal Service Fund (USF) surcharge shall be considered nonpayment of basic local telecommunications services for the purposes of this rule.

(3) A telecommunications company may place global toll blocking and eliminate any optional, non-basic calling features and functions for customer nonpayment of delinquent charges for other than basic local telecommunications service. Nonpayment of the Missouri USF surcharge shall be considered nonpayment of basic local telecommunications services for the purposes of this rule.

(4) Subject to the requirements of this chapter, service may be discontinued during normal business hours on or after the date specified in the notice of discontinuance. Basic local telecommunications service shall not be discontinued on a day when the offices of a telecommunications company are not available to facilitate reconnection of basic local telecommunications service or on a day immediately preceding such day.

(5) Telecommunications service shall not be discontinued under section (1) of this rule unless written notice by first-class mail is served on the customer at least ten (10) days prior to the date of the proposed discontinuance. Service of notice by mail is complete upon mailing. As an alternative, a telecommunications company may deliver a written notice by hand to the customer at least ninety-six (96) hours prior to discontinuance.

(6) A notice of discontinuance shall contain the following information:

(A) The name and address and the telephone number of the customer;

(B) A statement of the reason for the proposed discontinuance and the cost for reconnection;

(C) The date after which service will be discontinued unless appropriate action is taken;

(D) How a customer may avoid the discontinuance;

(E) The customer's right to enter into a settlement agreement if the claim is for a charge not in dispute and the customer is unable to pay the charge in full at one time;

(F) The telephone number where the customer may make an inquiry;

(G) A statement that this notice will not be effective if the charges involved are part of an unresolved dispute; and

(H) A statement of the exception for medical emergency under section (8) of this rule.

(7) At least twenty-four (24) hours preceding a discontinuance of basic local telecommunications service, a telecommunications company shall make reasonable efforts to advise the customer of the proposed discontinuance and what steps must be taken to avoid it. Reasonable efforts shall include either a written notice in addition to the notice required in section (5), a door hanger or at least one (1) telephone call attempt to reach the customer.

(8) In lieu of the written notice referenced in sections (6) and (7) above, and upon customer request, a telecommunications company may provide the information contained in the written notice of discontinuance of basic local telecommunications service in electronic format.

(9) Service may be immediately blocked or discontinued in the case of:

(A) Suspected illegal use; or

(B) Unauthorized use of telecommunications company equipment in a manner which creates an unsafe condition or creates the possibility of damage or destruction to such equipment.

(10) If service is immediately blocked or discontinued pursuant to section (9) above, the telecommunications carrier will provide immediate written notification of such blocking or discontinuance to the customer by certified, overnight mail or door hanger.

(11) Notwithstanding any other provision of this chapter, a telecommunications company shall postpone a discontinuance for at least twenty-one (21) days if service is necessary to obtain emergency medical assistance for a



person who is a member of the household where the telephone service is provided and where such person is under the care of a physician. Any person who alleges such emergency, if requested, shall provide the telecommunications company with reasonable evidence of such necessity.

(12) Upon the customer's request, a telecommunications company shall restore service consistent with all other provisions of this chapter when the cause of discontinuance has been eliminated.

(13) Payment by personal check may be refused if the customer, within the last twelve (12) months, has tendered payment in this manner and the check has been dishonored, except when the dishonor is due to bank error.

*AUTHORITY: sections 386.040 and 386.250, RSMo 2000 and 392.200, RSMo Supp. 2003.\* Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Amended: Filed July 5, 1983, effective Feb. 11, 1984. Emergency amendment filed Dec. 20, 1983, effective Jan. 1, 1984, expired Feb. 11, 1984. Rescinded and readopted: Filed Aug. 26, 1999, effective April 30, 2000. Amended: Filed Oct. 30, 2002, effective July 30, 2003. Amended: Filed Jan. 28, 2004, effective Sept. 30, 2004.*

*\*Original authority: 386.040, RSMo 1939; 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996; and 392.200, RSMo 1939, amended 1987, 1988, 1996, 2003.*

#### 4 CSR 240-33.080 Disputes by Residential Customers

*PURPOSE: This rule establishes the procedures by which disputes between residential customers and telecommunications companies should be resolved so that reasonable and uniform standards exist for handling disputes.*

(1) All bills shall clearly identify each company name associated with the toll free number the customer will be calling for billing disputes.

(2) A customer shall advise a telecommunications company that all or part of a charge is in dispute by written notice, in person or by a telephone message directed to the telecommunications company during normal business hours. A dispute must be registered with the utility prior to the delinquent date of the charge for a customer to avoid discontinuance of service as provided by these rules.

(3) When a customer advises a telecommunications company that all or part of a charge is in dispute, the telecommunications company shall record the date, time and place the inquiry is made; investigate the inquiry promptly and thoroughly; and attempt to resolve the dispute in a manner satisfactory to both parties.

(4) Failure of a customer to cooperate with the telecommunications company in efforts to resolve an inquiry which has the effect of placing charges in dispute shall constitute a waiver of the customer's right to continuance of service under this chapter.

(5) If a customer disputes a charge, the customer shall pay an amount to the telecommunications company equal to that part of the total bill not in dispute. The amount not in dispute shall be mutually determined by the parties. The parties shall consider the customer's prior usage, the nature of the dispute and any other pertinent factors in determining the amount not in dispute. The telecommunications company shall not discontinue service to a customer for nonpayment of charges in dispute while that dispute is pending.

(6) If the parties are unable to mutually determine the amount not in dispute, the customer shall pay to the telecommunications company, at the company's option, an amount not to exceed fifty percent (50%) of the charge in dispute or an amount based on usage during a like period under similar conditions which shall represent the amount not in dispute. The telecommunications company shall not discontinue service to a customer for nonpayment of charges in dispute while that dispute is pending.

(7) Failure of the customer to pay to the telecommunications company the amount not in dispute within four (4) working days from the date that the dispute is registered or by the delinquent date of the disputed bill, whichever is later, shall constitute a waiver of the customer's right to continuance of service and the telecommunications company may then proceed to discontinue service as provided in this rule.

(8) If the dispute is ultimately resolved in the favor of the customer in whole or in part, any excess moneys paid by the customer shall be refunded promptly.

(9) If the telecommunications company does not resolve the dispute to the satisfaction of the customer, the telecommunications company representative shall notify the customer that each party has a right to make an infor-

mal complaint to the commission, and of the address and telephone number where the customer may file an informal complaint with the commission. If a customer files an informal complaint with the commission prior to advising the telecommunications company that all or a portion of a bill is in dispute, the commission shall notify the customer of the payment required by sections (5) and (6) of this rule.

(10) After resolution of the customer complaint, a telecommunications company may treat a customer complaint or dispute involving the same question or issue based upon the same facts as already determined and is not required to comply with these rules more than once prior to discontinuance of service.

*AUTHORITY: sections 386.040 and 386.250, RSMo 2000 and 392.200, RSMo Supp. 2003.\* Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Rescinded and readopted: Filed Aug. 26, 1999, effective April 30, 2000. Amended: Filed Jan. 28, 2004, effective Sept. 30, 2004.*

*\*Original authority: 386.040, RSMo 1939; 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996; and 392.200, RSMo 1939, amended 1987, 1988, 1996, 2003.*

#### 4 CSR 240-33.090 Settlement Agreements with Residential Customers

*PURPOSE: This rule establishes a procedure where a residential customer may obtain an extension of time in which to pay charges due a telecommunications company so that reasonable and uniform standards are established with regard to payment extensions.*

(1) When a customer is unable to pay a charge in full when due, the telecommunications company to whom the charge is due shall permit the customer to enter into an initial settlement agreement under which the charge may be paid as mutually agreed to by both parties. A copy of the settlement agreement shall be delivered or mailed to the customer upon request by the customer.

(2) Matters treated by a settlement agreement shall not constitute a basis for a discontinuance as long as the terms of the settlement agreement are followed.

*AUTHORITY: sections 386.040, RSMo 1994 and 386.250 and 392.200, RSMo Supp. 1998.\* Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Rescinded and readopted: Filed Aug. 26, 1999, effective April 30, 2000.*



*\*Original authority: 386.040, RSMo 1939; 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996; and 392.200, RSMo 1939, amended 1987, 1988, 1996.*

#### 4 CSR 240-33.100 Variance

*PURPOSE: This rule establishes the procedure to be followed by a telecommunications company or customer when either seeks a variance from any provision of this chapter.*

(1) Any telecommunications company or customer may request authority for a variance from any provision of this chapter and the commission may grant that variance.

(2) A variance request shall be filed in writing with the secretary of the commission in compliance with 4 CSR 240-2.060.

(3) Any variance granted by the commission shall be reflected in a tariff if applicable.

*AUTHORITY: sections 386.040, RSMo 1994 and 386.250 and 392.200, RSMo Supp. 1998.\* Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Rescinded and readopted: Filed Aug. 26, 1999, effective April 30, 2000.*

*\*Original authority: 386.040, RSMo 1939; 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996; and 392.200, RSMo 1939, amended 1987, 1988, 1996.*

#### 4 CSR 240-33.110 Commission Complaint Procedures

*PURPOSE: This rule sets forth the procedures to be followed in filing formal or informal complaints with the commission regarding matters covered in this chapter.*

(1) Any customer aggrieved by a violation of any rules in this chapter or the Public Service Commission laws of Missouri relating to telecommunications companies may file an informal or formal complaint under 4 CSR 240-2.070.

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

(3) A telecommunications company shall acknowledge or respond by fax transmission or electronic mail 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 one (1) business day;

(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 commission staff have not informally agreed to 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 unless the company and commission staff have agreed to an extension;

(D) The company shall provide, as soon as available, but 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.

(4) If a telecommunications company and a customer fail to resolve a matter in dispute through the informal complaint process, the commission staff shall advise the customer of his/her right to file a formal complaint with the commission under 4 CSR 240-2.070.

(5) Pending the resolution of a complaint filed with the commission, the subject matter of such complaint shall not constitute a basis for discontinuance.

*AUTHORITY: sections 386.040 and 386.250, RSMo 2000 and 392.200, RSMo Supp. 2003.\* Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Rescinded and readopted: Filed Aug. 26, 1999, effective April 30, 2000. Amended: Filed Feb. 17, 2004, effective Sept. 30, 2004.*

*\*Original authority: 386.040, RSMo 1939; 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996; and 392.200, RSMo 1939, amended 1987, 1988, 1996, 2003.*

#### 4 CSR 240-33.120 Payment Discounts for Schools and Libraries that Receive Federal Universal Service Fund Support

*PURPOSE: This rule establishes tariff filing requirements that will enable schools and libraries to receive Federal Universal Service Funding.*

(1) Each company that provides telecommunications services to eligible schools or libraries shall file a tariff amendment to offer

discounted rates and services to eligible schools or libraries within thirty (30) days of the adoption of this rule.

(2) The intrastate discounts shall be available to the extent that the eligible schools and libraries also receive funds from the Federal Universal Service Fund and subject to the terms and conditions set forth in 47 CFR 54.500–54.517. Discounts on intrastate telecommunications services for eligible schools and libraries shall mirror the interstate discount as stated in the FCC Report and Order in CC Docket No. 96-45 (FCC 97-157), as adopted by the Missouri Public Service Commission in Docket No. TO-97-552. Any adjustments to the discount matrix shall be in accordance with the FCC's Report and Order in CC Docket No. 96-45 (FCC 97-157), paragraphs 538 and 542, or as adjusted in any future FCC decision or federal legislation on the subject.

*AUTHORITY: sections 386.040, RSMo 1994, 386.250 and 392.200, RSMo Supp. 1998.\* Original rule filed Aug. 26, 1999, effective April 30, 2000.*

*\*Original authority: 386.040, RSMo 1939; 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996; and 392.200, RSMo 1939, amended 1987, 1988, 1996.*

#### 4 CSR 240-33.130 Operator Service

*PURPOSE: This rule establishes standards to be followed by telecommunications companies that provide operator services.*

(1) The operator service provider will not bill for incomplete calls.

(2) The caller and billed party, if different from the caller, will be advised of the name of the operator service provider at the time of the initial contact.

(3) The operator service provider must provide a means to readily access general rate information prior to making a call, or in the case of a collect call, prior to accepting the charges for a call.

(4) The operator service provider will only place tariffed rates on customer bills.

(5) If local exchange company billing services are used, the name of the operator service provider will be listed on the bill if the local exchange company has multicarrier billing ability.





(6) The operator service provider will employ reasonable calling card verification procedures.

(7) The operator service provider will route all 0- and 00- emergency calls in the quickest possible manner to the appropriate local emergency service provider, at no charge.

(8) Upon request, the operator service provider will transfer calls to, or advise how to reach, other authorized interexchange carriers or the local exchange company. This service will be provided if billing can list the caller's actual origination point and an agreement exists between the operator service provider and the interexchange carrier or local exchange company.

*AUTHORITY: sections 386.040, RSMo 1994, 386.250 and 392.200, RSMo Supp. 1998.\* Original rule filed Aug. 26, 1999, effective April 30, 2000.*

*\*Original authority: 386.040, RSMo 1939; 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996; and 392.200, RSMo 1939, amended 1987, 1988, 1996.*

#### 4 CSR 240-33.140 Pay Telephone

*PURPOSE: This rule establishes standards to be followed by telecommunications companies that provide pay telephone service.*

(1) Customers using pay telephone equipment shall be able to reach the operator without charge and without the use of a coin.

(2) Customers using pay telephone equipment shall be able to reach local 911 emergency service, where available, without charge and without using a coin or, if 911 is unavailable, there shall be a prominent display on each instrument of the required procedure to reach local emergency service without charge and without using a coin.

(3) The pay telephone provider must provide a means to readily access rate information prior to making a call, or in the case of a collect call, prior to accepting the charges for a call.

(4) Pay telephone equipment shall allow the completion of local and toll calls.

(5) Pay telephone equipment shall permit access to directory assistance.

(6) Pay telephone equipment shall not block access to any local or interexchange telecom-

munications company except as otherwise authorized by law.

(7) The following information shall be displayed in close proximity to all pay telephone equipment:

(A) The name, address and telephone number of the pay telephone service provider;

(B) The method of obtaining refunds;

(C) The procedure for reporting service difficulty;

(D) If applicable, the notice should state that the pay telephone does not accept incoming calls;

(E) The name of the telecommunications company handling 0+ long distance calls; and

(F) The method of obtaining long distance access.

*AUTHORITY: sections 386.040, RSMo 1994, 386.250 and 392.200, RSMo Supp. 1998.\* Original rule filed Aug. 26, 1999, effective April 30, 2000.*

*\*Original authority: 386.040, RSMo 1939; 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996; and 392.200, RSMo 1939, amended 1987, 1988, 1996.*

#### 4 CSR 240-33.150 Verification of Orders for Changing Telecommunications Service Provider

*PURPOSE: This rule reduces or eliminates the practice of "slamming," the unauthorized change of a customer's preferred telecommunications carrier without the customer's knowledge or consent, by establishing the requirements telecommunications companies must follow in changing telecommunications providers pursuant to customer request.*

(1) Definitions. For the purposes of 4 CSR 240-33.150, the following definitions are applicable:

(A) Submitting carrier: a submitting carrier is generally any telecommunications carrier that—a) requests on the behalf of a subscriber that the subscriber's telecommunications carrier be changed, and b) seeks to provide retail services to the end user subscriber. A carrier may be treated as a submitting carrier, however, if it is responsible for any unreasonable delays in the submission of carrier change requests or for the submission of unauthorized carrier change requests, including fraudulent authorizations;

(B) Executing carrier: an executing carrier is generally any telecommunications carrier that effects a request that a subscriber's telecommunications carrier be changed. A carrier may be treated as an executing carrier,

however, if it is responsible for any unreasonable delays in the execution of carrier changes or for the execution of unauthorized carrier changes, including fraudulent authorizations;

(C) Authorized carrier: an authorized carrier is generally any telecommunications carrier that submits a change, on behalf of a subscriber, in the subscriber's selection of a provider of telecommunications service with the subscriber's authorization verified in accordance with the procedures specified in 4 CSR 240-33.150;

(D) Unauthorized carrier: an unauthorized carrier is generally any telecommunications carrier that submits a change, on behalf of a subscriber, in the subscriber's selection of a provider of telecommunications service but fails to obtain the subscriber's authorization verified in accordance with the procedures specified in 4 CSR 240-33.150;

(E) Unauthorized change: an unauthorized change is a change in a subscriber's selection of a provider of telecommunications service that was made without authorization verified in accordance with the verification procedures contained in 4 CSR 240-33.150; and

(F) Commission: the Missouri Public Service Commission as created by Chapter 386 of the *Missouri Revised Statutes*.

(2) Changes in Subscriber Carrier Selections.

(A) No telecommunications carrier shall submit or execute a change on the behalf of a subscriber in the subscriber's selection of a provider of telecommunications service except in accordance with the procedures prescribed in 4 CSR 240-33.150.

1. No submitting carrier shall submit a change on the behalf of a subscriber in the subscriber's selection of a provider of telecommunications service prior to obtaining: a) authorization from the subscriber, and b) verification of that authorization in accordance with the procedures prescribed in section (3). For a submitting carrier, compliance with the procedures prescribed in 4 CSR 240-33.150 shall be defined as compliance with 4 CSR 240-33.150(2) and (3). The submitting carrier shall maintain and preserve records of verification of subscriber authorization for a minimum period of two (2) years after obtaining such verification.

2. An executing carrier shall not verify the submission of a change in a subscriber's selection of a provider of telecommunications service received from a submitting carrier. For an executing carrier, compliance with the procedures prescribed in 4 CSR 240-33.150 shall be defined as prompt execution, without any unreasonable delay, of changes that have been verified by a submitting carrier.





3. Where a telecommunications carrier is selling more than one (1) type of telecommunications service (e.g., local exchange, intraLATA/intrastate toll, interLATA/interstate toll, and international toll) that carrier must obtain separate authorization from the subscriber for each service sold, although the authorizations may be made within the same solicitation. Each authorization must be verified separately from any other authorizations obtained in the same solicitation. Each authorization must be verified in accordance with the verification procedures prescribed in 4 CSR 240-33.150.

(3) Verification of Orders for Telecommunications Service.

(A) No telecommunications carrier shall submit a preferred carrier change order unless and until the order has first been confirmed in accordance with subsection (3)(B), (C) or (D).

(B) The telecommunications carrier has obtained the subscriber's written authorization in a form that meets the requirements of 4 CSR 240-33.150(5).

(C) The telecommunications carrier has obtained the subscriber's electronic authorization to submit the preferred carrier change order. Such authorization must be placed from the telephone number(s) on which the preferred carrier is to be changed and must confirm the information required in section (5) of this rule. Telecommunications carriers electing to confirm sales electronically shall establish one (1) or more toll-free telephone numbers exclusively for that purpose. Calls to the number(s) shall connect a subscriber to a voice response unit, or similar mechanism that records the required information regarding the preferred carrier change, including automatically recording the originating automatic numbering identification.

(D) An appropriately qualified independent third party has obtained the subscriber's oral authorization to submit the preferred carrier change order that confirms and includes appropriate verification data (e.g., the subscriber's date of birth). The independent third party—a) must not be owned, managed, controlled, or directed by the carrier or the carrier's marketing agent; b) must not have any financial incentive to confirm preferred carrier change orders for the carrier or the carrier's marketing agent; and c) must operate in a location physically separate from the carrier or the carrier's marketing agent. The content of the verification must include clear and conspicuous confirmation that the subscriber has authorized a preferred carrier change.

(4) Changes in subscriber carrier selections as a result of merger or consolidation or the sale, assignment, lease or transfer of assets.

(A) A telecommunications carrier may submit or execute a change in a subscriber's provider of telecommunications service on behalf of the subscriber without obtaining authorization and verification in accordance with the procedures prescribed in 4 CSR 240-33.150(2) and 4 CSR 240-33.150(3) when such change is a result of merger or consolidation or the sale, assignment, lease or transfer of assets approved by the commission.

(B) A telecommunications carrier will notify all subscribers of such change through a notice in each subscriber's bill at least thirty (30) days prior to the effective date of the change.

(C) A telecommunications carrier will notify all subscribers of the right to switch to another service provider.

(5) Letter of Agency Form and Content.

(A) A telecommunications carrier may use a letter of agency to obtain written authorization and/or verification of a subscriber's request to change his or her preferred carrier selection. A letter of agency that does not conform with this section is invalid for purposes of 4 CSR 240-33.150.

(B) The letter of agency shall be a separate document (or an easily separable document) containing only the authorizing language described in subsection (E) of this section having the sole purpose of authorizing a telecommunications carrier to initiate a preferred carrier change. The letter of agency must be signed and dated by the subscriber to the telephone line(s) requesting the preferred carrier change.

(C) The letter of agency shall not be combined on the same document with inducements of any kind.

(D) Notwithstanding subsections (B) and (C) of this section, the letter of agency may be combined with checks that contain only the required letter of agency language as prescribed in subsection (E) of this section and the necessary information to make the check a negotiable instrument. The letter of agency check shall not contain any promotional language or material. The letter of agency check shall contain in easily readable, bold-face type on the front of the check, a notice that the subscriber is authorizing a preferred carrier change by signing the check. The letter of agency language shall be placed near the signature line on the back of the check.

(E) At a minimum, the letter of agency shall be printed with a type of sufficient size and readable type to be clearly legible and

shall contain clear and unambiguous language that confirms—

1. The subscriber's billing name and address and each telephone number to be covered by the preferred carrier change order;

2. The decision to change the preferred carrier from the current telecommunications carrier to the soliciting telecommunications carrier;

3. That the subscriber designates the submitting carrier to act as the subscriber's agent for the preferred carrier change;

4. That the subscriber understands that only one (1) telecommunications carrier may be designated as the subscriber's interstate or interLATA preferred interexchange carrier for any one (1) telephone number. The letter of agency shall contain separate statements regarding intraLATA/intrastate and interLATA/interstate, although a separate letter of agency for each choice is not necessary; and

5. That the subscriber understands that any preferred carrier selection the subscriber chooses may involve a charge to the subscriber for changing the subscriber's preferred carrier.

(F) Any carrier designated in a letter of agency as a preferred carrier must be the carrier directly setting the rates for the subscriber.

(G) Letters of agency shall not suggest or require that a subscriber take some action in order to retain the subscriber's current telecommunications carrier.

(H) If any portion of a letter of agency is translated into another language then all portions of the letter of agency shall be translated into that language. Every letter of agency shall be translated into the same language as any promotional materials, oral descriptions or instructions provided with the letter of agency.

(6) Preferred Carrier Freezes.

(A) A preferred carrier freeze (or freeze) prevents a change in a subscriber's preferred carrier selection unless the subscriber gives the carrier from whom the freeze was requested his or her express consent. All local exchange carriers who offer preferred carrier freezes must comply with the provisions of this section.

(B) All local exchange carriers who offer preferred carrier freezes shall offer freezes on a nondiscriminatory basis to all subscribers, regardless of the subscriber's carrier selections.

(C) Preferred carrier freeze procedures, including any solicitation, must clearly distinguish among telecommunications services (e.g., local exchange, intraLATA/intrastate



toll, interLATA/interstate toll, and international toll) subject to a preferred carrier freeze. The carrier offering the freeze must obtain separate authorization for each service for which a preferred carrier freeze is requested.

(D) Solicitation and Imposition of Preferred Carrier Freezes.

1. All carrier-provided solicitation and other materials regarding preferred carrier freezes must include:

A. An explanation, in clear and neutral language, of what a preferred carrier freeze is and what services may be subject to a freeze;

B. A description of the specific procedures necessary to lift a preferred carrier freeze; an explanation that these steps are in addition to the commission's verification rules in sections 4 CSR 240-33.150(2) and (3) for changing a subscriber's preferred carrier selections; and an explanation that the subscriber will be unable to make a change in carrier selection unless he or she lifts the freeze; and

C. An explanation of any charges associated with the preferred carrier freeze.

2. No local exchange carrier shall implement a preferred carrier freeze unless the subscriber's request to impose a freeze has first been confirmed in accordance with one (1) of the following procedures:

A. The local exchange carrier has obtained the subscriber's written and signed authorization in a form that meets the requirements of 4 CSR 240-33.150(5); or

B. The local exchange carrier has obtained the subscriber's electronic authorization, placed from the telephone number(s) on which the preferred carrier freeze is to be imposed, to impose a preferred carrier freeze. The electronic authorization should confirm appropriate verification data (e.g., the subscriber's date of birth) and the information required in section (5). Telecommunications carriers electing to confirm preferred carrier freeze orders electronically shall establish one or more toll-free telephone numbers exclusively for that purpose. Calls to the number(s) will connect a subscriber to a voice response unit, or similar mechanism that records the required information regarding the preferred carrier freeze request, including automatically recording the originating automatic numbering identification; or

C. An appropriately qualified independent third party has obtained the subscriber's oral authorization to submit the preferred carrier freeze and confirmed the appropriate verification data (e.g., the subscriber's date of birth) and the information required in section (5). The independent third

party must—1) not be owned, managed, or directly controlled by the carrier or the carrier's marketing agent; 2) must not have any financial incentive to confirm preferred carrier freeze requests for the carrier or the carrier's marketing agent; and 3) must operate in a location physically separate from the carrier or the carrier's marketing agent. The content of the verification must include clear and conspicuous confirmation that the subscriber has authorized a preferred carrier freeze.

3. Written authorization to impose a preferred carrier freeze. A local exchange carrier may accept a subscriber's written and signed authorization to impose a freeze on his or her preferred carrier selection. Written authorization that does not conform with this section is invalid and may not be used to impose a preferred carrier freeze.

A. The written authorization shall comply with section (5) of the commission's rules concerning the form and content for letters of agency.

B. At a minimum, the written authorization must be printed with a readable type of sufficient size to be clearly legible and must contain clear and unambiguous language that confirms—

(I) The subscriber's billing name and address and the telephone number(s) to be covered by the preferred carrier freeze;

(II) The decision to place a preferred carrier freeze on the telephone number(s) and particular service(s). To the extent that a jurisdiction allows the imposition of preferred carrier freezes on additional preferred carrier selections (e.g., for local exchange, intraLATA/intrastate toll, interLATA-/interstate toll service, and international toll), the authorization must contain separate statements regarding the particular selections to be frozen;

(III) That the subscriber understands that she or he will be unable to make a change in carrier selection unless she or he lifts the preferred carrier freeze; and

(IV) That the subscriber understands that any preferred carrier freeze may involve a charge to the subscriber.

(E) Procedures for Lifting Preferred Carrier Freezes. All local exchange carriers who offer preferred carrier freezes must, at a minimum, offer subscribers the following procedures for lifting a preferred carrier freeze:

1. A local exchange carrier administering a preferred carrier freeze must accept a subscriber's written and signed authorization stating her or his intent to lift a preferred carrier freeze; and

2. A local exchange carrier administering a preferred carrier freeze must accept a subscriber's oral authorization stating her or

his intent to lift a preferred carrier freeze and must offer a mechanism that allows a submitting carrier to conduct a three (3)-way conference call with the carrier administering the freeze and the subscriber in order to lift a freeze. When engaged in oral authorization to lift a preferred carrier freeze, the carrier administering the freeze shall confirm appropriate verification data (e.g., the subscriber's date of birth) and the subscriber's intent to lift the particular freeze.

(7) Carrier Liability for Charges. Any submitting telecommunications carrier that fails to comply with the procedures prescribed in 4 CSR 240-33.150 shall be liable to the subscriber's properly authorized carrier in an amount equal to all charges paid to the submitting telecommunications carrier by such subscriber after such violation. The remedies provided in 4 CSR 240-33.150 are in addition to any other remedies available at law.

*AUTHORITY: sections 386.040, 386.250, and 392.540, RSMo 2000 and 392.200, RSMo Supp. 2003.\* Emergency rule filed Oct. 21, 1998, effective Jan. 1, 1999, expired June 29, 1999. Emergency rule filed June 17, 1999, effective June 30, 1999, terminated Nov. 30, 1999. Original rule filed July 8, 1999, effective Nov. 30, 1999. Amended: Filed Jan. 28, 2004, effective Sept. 30, 2004.*

*\*Original authority: 386.040, RSMo 1939; 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996; 392.200, RSMo 1939, amended 1987, 1988, 1996, 2003; and 392.540, RSMo 1998.*

#### 4 CSR 240-33.160 Customer Proprietary Network Information

*PURPOSE: This rule establishes the procedures by which telecommunications companies may use, disclose, or permit access to customer proprietary network information.*

(1) Definitions. For the purposes of 4 CSR 240-33.160, the following definitions are applicable:

(A) Affiliate is any person, including an individual, corporation, service company, corporate subsidiary, firm, partnership, incorporated or unincorporated association, political subdivision, which directly or indirectly, through one (1) or more intermediaries, controls, is controlled by, or is under common control with the regulated telecommunications company;

(B) Agent is a person or entity who is authorized to act on behalf of a telecommunications company or its affiliates;



(C) Categories of service include local exchange telecommunications services and interexchange telecommunications services;

(D) Communications-related services are telecommunications services, information services typically provided by telecommunications companies, and services related to the provision or maintenance of customer premises equipment;

(E) Control (including the terms “controlling,” “controlled by,” and “common control”) is the possession, directly or indirectly, of the power to direct, or to cause the direction of the management or policies of an entity, whether such power is exercised through one (1) or more intermediary entities, or alone, or in conjunction with, or pursuant to an agreement with, one (1) or more other entities, whether such power is exercised through a majority or minority ownership or voting of securities, common directors, officers or stockholders, voting trusts, holding trusts, affiliated entities, contract or any other direct or indirect means. The commission shall presume that the beneficial ownership of ten percent (10%) or more of voting securities or partnership interest of an entity constitutes control for purposes of this rule;

(F) Customer is a person or entity to which the telecommunications company is currently providing service;

(G) Customer proprietary network information (CPNI) is information that relates to the quantity, technical configuration, type, destination, location and amount of use of a telecommunications service subscribed to by any customer of a telecommunications company, and that is made available to the telecommunications company by the customer solely by virtue of the customer-telecommunications company relationship. Customer proprietary network information also is information contained in bills pertaining to basic local exchange telecommunications service or interexchange telecommunications service received by a customer of a telecommunications company. Customer proprietary network information does not include subscriber list information;

(H) Customer premises equipment (CPE) is equipment employed on the premises of a person (other than a carrier) to originate, route, or terminate telecommunications;

(I) Independent contractor is a third party who contracts with a telecommunications company for the provision of services to the telecommunications company, but who is not controlled by the telecommunications company;

(J) Information service is the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utiliz-

ing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service;

(K) Information services typically provided by telecommunications companies are only those information services as defined in subsection (1)(J) that are typically provided by telecommunications companies, such as Internet access or voice mail services. Information services typically provided by telecommunications companies as used in this rule shall not include retail consumer services provided using Internet websites (such as travel reservation services or mortgage lending services), whether or not such services may otherwise be considered to be information services;

(L) Joint venture partner is a third party that agrees to share with a telecommunications company in the profits and losses of a business entity formed by the telecommunications company and the third party;

(M) Local exchange telecommunications company (LEC) is any company engaged in the provision of local exchange or exchange access telecommunications services;

(N) Opt-in approval is a method for obtaining customer consent to use, disclose, or permit access to the customer’s CPNI. This approval method requires that the telecommunications company obtain from the customer affirmative, express consent allowing the requested CPNI usage, disclosure, or access after the customer is provided appropriate notification of the telecommunications company’s request consistent with the requirements set forth in this rule;

(O) Opt-out approval is a method for obtaining customer consent to use, disclose, or permit access to the customer’s CPNI. Under this approval method, a customer is deemed to have consented to the use, disclosure, or access to the customer’s CPNI if the customer has failed to object thereto within a thirty (30)-day minimum period of time after the customer is provided appropriate notification of the telecommunications company’s request for consent consistent with these rules. A telecommunications company may, in its discretion, provide for a longer period. Telecommunications companies must notify customers as to the applicable waiting period for a response before approval is assumed;

(P) Party is a participant in, or an agent or designee acting on behalf of and for the benefit of a participant to a transaction in which an end-user’s CPNI is sold, transferred, shared or otherwise disseminated;

(Q) Public safety answering point (PSAP) is a communications location used by public safety agencies for answering emergency telephone service calls which originate in a given area. A PSAP may be designated as primary or secondary, which refers to the order in which calls are directed for answering. PSAPs may be located at police, fire or emergency medical service communications centers, or may be located in a specialized centralized communications center which handles all emergency communications for an area;

(R) Subscriber list information (SLI) is any information identifying the listed names of subscribers of a telecommunications company and such subscribers’ telephone numbers, addresses, or primary advertising classifications (as such classifications are assigned at the time of the establishment of such service), or any combination of such listed names, numbers, addresses, or classifications; and that the telecommunications company or an affiliate has published, caused to be published, or accepted for publication in any directory format;

(S) Telecommunications company is used as defined in section 386.020, RSMo 2000;

(T) Telecommunications service is used as defined in section 386.020, RSMo 2000;

(U) Third party is a company not owned or controlled by or owning or controlling a telecommunications company. The third party usually operates outside the market in which a telecommunications company operates and does not provide communications-related services.

#### (2) Use of CPNI Without Customer Approval.

(A) Any telecommunications company may use, disclose, or permit access to CPNI for the purpose of providing or marketing service offerings among the categories of service to which the customer already subscribes from the same telecommunications company, without customer approval.

1. If a telecommunications company provides different categories of service, and a customer subscribes to more than one (1) category of service offered by the telecommunications company, the telecommunications company is permitted to share CPNI among the telecommunications company’s affiliates that provide a service offering to the customer.

2. If a telecommunications company provides different categories of service, but a customer does not subscribe to more than one offering by the telecommunications company,





the telecommunications company is not permitted to share CPNI with the telecommunications company's affiliates, except as provided in section (3).

(B) A telecommunications company may not use, disclose, or permit access to CPNI to market to a customer service offerings that are within a category of service to which the customer does not already subscribe from that telecommunications company, unless the telecommunications company has customer approval to do so, except as described in subsection (2)(C).

1. A telecommunications company may use, disclose or permit access to CPNI derived from its provision of basic local exchange telecommunications service or interexchange service, without customer approval, for the provision of CPE and call answering, voice mail or messaging, voice storage and retrieval services, fax store and forward, and protocol conversions.

2. A telecommunications company may not use, disclose or permit access to CPNI to identify or track customers that call competing telecommunications service providers. For example, a local exchange telecommunications company may not use basic local exchange telecommunications service CPNI to track all customers that call basic local exchange telecommunications service competitors.

(C) Approval not required for use of customer proprietary network information.

1. A telecommunications company may use, disclose, or permit access to CPNI, without customer approval, in its provision of inside wiring installation, maintenance, and repair services.

2. A telecommunications company may use CPNI, without customer approval, to market services such as, but not limited to, speed dialing, computer-provided directory assistance, call monitoring, call tracing, call blocking, call return, repeat dialing, call tracking, call waiting, caller I.D., call forwarding, and certain centrex features.

3. A telecommunications company may use, disclose, or permit access to CPNI to protect the rights or property of the telecommunications company, or to protect users of those services and other telecommunications companies from fraudulent, abusive, or unlawful use of, or subscription to, such services.

4. A telecommunications company may use, disclose, or permit access to customer information to public safety answering points (PSAPs) if the PSAP claims it needs the information to respond to an emergency. Information to be released shall be limited to

subscriber list information as defined in 4 CSR 240-33.160(1)(R).

(3) Approval Required for Use of CPNI.

(A) Use of Opt-Out and Opt-In Approval Process.

1. A telecommunications company may, subject to opt-out approval or opt-in approval, use its customer's individually identifiable CPNI for the purpose of marketing communications-related services to that customer. A telecommunications company may, subject to opt-out approval or opt-in approval, disclose its customer's individually identifiable CPNI, for the purpose of marketing communications-related services to that customer, to its agents; its affiliates that provide communications-related services; and its joint venture partners and independent contractors. A telecommunications company may also permit such persons or entities to obtain access to such CPNI for such purposes. Any such disclosure to or access provided to agents, affiliates, joint venture partners and independent contractors shall be subject to the safeguards set forth in paragraph (3)(A)2. below. A telecommunications company may elect not to apply the safeguards set forth in paragraph (3)(A)2. below to its agents or affiliates, however, if the telecommunications company so elects, then it shall be held responsible if its agents or affiliates further use, allow access to, or disclose customer CPNI.

2. Agents/affiliates/joint venture/contractor safeguards. A telecommunications company that discloses or provides access to CPNI to its agents, affiliates, joint venture partners or independent contractors shall enter into confidentiality agreements with those agents, affiliates, joint venture partners or independent contractors that comply with the following requirements. The confidentiality agreement shall:

A. Require that those agents, affiliates, joint venture partners or independent contractors use the CPNI only for the purpose of marketing or providing the communications-related services for which that CPNI has been provided;

B. Disallow the agents, affiliates, joint venture partners or independent contractors from using, allowing access to, or disclosing the CPNI to any other party, unless required to make such disclosure under force of law; and

C. Require that the agents, affiliates, joint venture partners and independent contractors have appropriate protections in place to ensure the ongoing confidentiality of customers' CPNI.

(B) Except for use and disclosure of CPNI that is permitted without customer approval under section (2) of this rule, or that is described in subsection (2)(B), or as otherwise provided in section 222 of the Communications Act of 1934, as amended, a telecommunications company may only use, disclose, or permit access to its customer's individually identifiable CPNI subject to opt-in approval.

(C) A telecommunications company may obtain approval through written, oral or electronic methods.

1. A telecommunications company relying on oral approval must bear the burden of demonstrating that such approval has been given in compliance with the commission's rule.

2. Approval or disapproval to use, disclose, or permit access to a customer's CPNI obtained by a telecommunications company must remain in effect until the customer revokes or limits such approval or disapproval.

3. A telecommunications company must maintain records of approval, whether oral, written or electronic, for at least one (1) year.

(4) Customer Notification Requirements.

(A) Prior to any solicitation for customer approval, a telecommunications company must provide notification to the customer of the customer's right to restrict use of, disclosure of, and access to that customer's CPNI.

1. A telecommunications company must maintain records of notification, whether oral, written or electronic, for at least one (1) year.

(B) Individual notice to customers must be provided when soliciting approval to use, disclose, or permit access to customers' CPNI.

(C) Content of Notice. Customer notification must provide sufficient information to enable the customer to make an informed decision as to whether to permit a carrier to use, disclose, or permit access to, the customer's CPNI.

1. The notification must state that the customer has a right, and the telecommunications company a duty, under federal and state law, to protect the confidentiality of CPNI.

2. The notification must specify the types of information that constitute CPNI and the specific entities that will receive the CPNI, describe the purposes for which CPNI will be used, and inform the customer of his or her right to disapprove those uses, and deny or withdraw access to CPNI at any time.

3. The notification must advise the customer of the precise steps the customer must take in order to grant or deny access to



CPNI, and must clearly state that a denial of approval will not affect the provision of any services to which the customer subscribes. However, companies may provide a brief statement, in clear and neutral language, describing consequences directly resulting from the lack of access to CPNI.

4. The notification shall be comprehensible and shall not be misleading.

5. If written notification is provided, the notice must be clearly legible, use at least a ten (10)-point font, and be placed in an area so as to be readily apparent to a customer.

6. If any portion of a notification is translated into another language, then all portions of the notification must be translated into that language.

7. A telecommunications company may state in the notification that the customer's approval to use CPNI may enhance the telecommunications company's ability to offer products and services tailored to the customer's needs. The notification required under subsection (4)(C) shall be in a font size no smaller than such statement.

8. A telecommunications company also may state in the notification that it may be compelled to disclose CPNI to any person upon affirmative written request by the customer.

9. A telecommunications company may not include in the notification any statement attempting to encourage a customer to freeze third party access to CPNI.

10. The notification must state that any approval, or denial of approval for the use of CPNI outside of the service to which the customer already subscribes to from that telecommunications company is valid until the customer affirmatively revokes or limits such approval or denial.

11. A telecommunications company's solicitation for approval must include a notification of a customer's CPNI rights. The CPNI rights must be in close proximity to the solicitation.

(D) Notice Requirements Specific to Opt-Out. A telecommunications company must provide notification to obtain opt-out approval through electronic or written methods, but not by oral communication (except as provided in subsection (4)(F)). The contents of any such notification must comply with the requirements of subsection (4)(C).

1. Telecommunications companies must wait a thirty (30)-day minimum period of time after giving customers notice and an opportunity to opt-out before assuming customer approval to use, disclose, or permit access to CPNI. A telecommunications company may, in its discretion, provide for a longer period. Telecommunications compa-

nies must notify customers as to the applicable waiting period for a response before approval is assumed.

A. In the case of an electronic form of notification, the waiting period shall begin to run from the date on which the notification was sent; and

B. In the case of notification by mail, the waiting period shall begin to run on the third day following the date that the notification was mailed.

2. Telecommunications companies using the opt-out mechanism must provide notices to their customers every two (2) years.

3. Telecommunications companies that use e-mail to provide opt-out notices must comply with the following requirements in addition to the requirements generally applicable to notification:

A. Telecommunications companies must obtain express, verifiable, prior approval from consumers to send notices via e-mail regarding their service in general, or CPNI in particular;

B. Telecommunications companies must allow customers to reply directly to e-mails containing CPNI notices in order to opt-out;

C. Opt-out e-mail notices that are returned to the telecommunications company as undeliverable must be sent to the customer in another form before companies may consider the customer to have received notice;

D. Telecommunications companies that use e-mail to send CPNI notices must ensure that the subject line of the message clearly and accurately identifies the subject matter of the e-mail; and

E. Telecommunications companies must make available to every customer a method to opt-out that is of no additional cost to the customer and that is available twenty-four (24) hours a day, seven (7) days a week. Telecommunications companies may satisfy this requirement through a combination of methods, so long as all customers have the ability to opt-out at no charge to the customer and are able to effectuate that choice whenever they choose.

(E) Notice Requirements Specific to Opt-In. A telecommunications company may provide notification to obtain opt-in approval through oral, written, or electronic methods. The contents of any such notification must comply with the requirements of subsection (4)(C).

(F) Notice Requirements Specific to One (1)-Time Use of CPNI.

1. Companies may use oral notice to obtain limited, one (1)-time use of CPNI for inbound and outbound customer telephone contacts for the duration of the call, regard-

less of whether telecommunications companies use opt-out or opt-in approval based on the nature of the contact.

2. The contents of any such notification must comply with the requirements of subsection (4)(C), except that telecommunications companies may omit any of the following notice provisions if not relevant to the limited use for which the telecommunications company seeks CPNI:

A. Telecommunications companies need not advise customers that if they have opted-out previously, no action is needed to maintain the opt-out election;

B. Telecommunications companies need not advise customers that they may share CPNI with their affiliates or third parties and need not name those entities if the limited CPNI usage will not result in use by, or disclosure to, an affiliate or third party;

C. Telecommunications companies need not disclose the means by which a customer can deny or withdraw future access to CPNI, so long as telecommunications companies explain to customers that the scope of the approval the telecommunications company seeks is limited to one (1)-time use; and

D. Telecommunications companies may omit disclosure of the precise steps a customer must take in order to grant or deny access to CPNI, as long as the telecommunications company clearly communicates that the customer can deny access to his CPNI for the call.

(5) Release of Customer Proprietary Network Information Resulting from Bankruptcy, Cessation of Operation, Merger or Transfer of Assets.

(A) The exiting carrier shall provide customers with advance notice of the transfer of CPNI data.

(B) Customer notification shall comply with section (4) of this rule.

(C) Any opt-in/opt-out authorizations the customers previously executed with the exiting carrier should be transferred to the new carrier automatically, thereby ensuring that customers maintain their privacy interests by protecting this information from disclosure and dissemination. If the exiting carrier does not transfer CPNI data to the new carrier, the company receiving the new customers shall send a new CPNI notice to the customers acquired from the exiting carrier.

(D) The provisions of this section do not apply to customers transferred to the carrier of last resort under the commission's snap-back rule, 4 CSR 240-32.120.

(6) Safeguards Required for Use of Customer Proprietary Network Information.



(A) Telecommunications companies must implement a system by which the status of a customer's CPNI approval can be clearly established prior to the use of CPNI.

(B) Telecommunications companies must train their personnel as to when they are and are not authorized to use CPNI, and companies must have an express disciplinary process in place.

(C) All telecommunications companies shall maintain a record, electronically or in some other manner, of their own, their agents', their affiliates', their joint venture partners', or their independent contractors' sales and marketing campaigns that use their customers' CPNI. All companies shall maintain a record of all instances where CPNI was disclosed or provided to third parties, or where third parties were allowed access to CPNI. The record must include a description of each campaign, the specific CPNI that was used in the campaign, and what products and services were offered as a part of the campaign. Telecommunications companies shall retain these records for all current and former customers for a minimum of one (1) year.

(D) A telecommunications company must establish a supervisory review process regarding telecommunications company compliance with the rules for outbound marketing situations and maintain records of telecommunications company compliance for a minimum period of one (1) year. Specifically, sales personnel must obtain supervisory approval of any proposed outbound marketing request for customer approval.

(E) Telecommunications companies must provide written notice within five (5) business days to the commission of any instance where the opt-out mechanisms do not work properly, to such a degree that customers' inability to opt-out is more than an anomaly.

1. The notice shall be in the form of a letter, and shall include the telecommunications company's name, a description of the opt-out mechanism(s) used, the problem(s) experienced, the remedy proposed and when it will be/was implemented, a copy of the notice provided to customers, and contact information.

2. Such notice must be submitted even if the telecommunications company offers other methods by which customers may opt-out.

*AUTHORITY: sections 386.040, 386.250, 392.185(9), 392.470, RSMo 2000.\* Original rule filed March 30, 2004, effective Nov. 30, 2004.*

*\*Original authority: 386.040, RSMo 1939; 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996; 392.185, RSMo 1996; and 392.470, RSMo 1987.*