

Shaded areas in proposed rules reflect areas of concern by other parties

**Rules of
Department of Economic
Development
Division 240—Public Service Commission
Chapter 31—[Missouri] Universal Service [Fund]**

Comment on general approach to this rulemaking

T-Mobile: The MoPSC’s general approach should be to simply reference the FCC rules and only expand on those rules to the extent the Missouri rules would include additional requirements or specifically identify particular Missouri program requirements.

MoPSC Staff response: *T-Mobile’s recommendation is applicable to certain portions of 4 CSR 240-31.010 (Definitions), 4 CSR 240-31.120 (Lifeline Program and Disabled Program) and 4 CSR 240-31.130 (Eligible Telecommunications Carrier Requirements). This type of recommendation is inappropriate for rules solely relating to the operations of the Missouri USF such as 4 CSR 240-31.020 (Organization, Powers and Meetings of the Board, 4 CSR 240-31.030 (The MoUSFA), 4 CSR 240-31.060 (The MoUSF Assessment), 4 CSR 240-31.090 (Disbursements of MoUSF), or 4 CSR 240-31.110 (Review of Board and MoUSFA Activities).*

The proposed rule incorporates some aspects of T-Mobile’s proposal by referencing applicable FCC rules. In many instances the MoPSC’s proposed rules identify requirements not found in FCC rules and so full incorporation of T-Mobile’s proposal may significantly alter this rulemaking and have unintended consequences. Perhaps the most significant reason for not attempting to fully implement T-Mobile’s proposal is due to Missouri’s unique Disabled program. Missouri’s Disabled program operates in a similar manner to the Lifeline program; however, the FCC’s rules are not applicable to Missouri’s Disabled program. Consequently incorporating this proposal in Missouri’s rules is somewhat more convoluted than in other states.

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Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 31—[Missouri] Universal Service [Fund]

Comments for 4 CSR 240-31.010

Sections (6) and (18):

Office of Public Counsel: Disagrees with proposal to make the definition of essential local telecommunications services synonymous with the definition for voice telephony service. Concern voice telephony service definition does not include valuable services such as directory assistance, operator services and equal access to interexchange carriers. (see attached OPC comments)

MoPSC Staff response: *The FCC's recent USF reforms modified its definition for voice telephony service in an effort to shift to a **technologically neutral approach**. The FCC does not expect this change to result in a lower standard of voice service even though the FCC's new definition eliminates the requirement to provide access to certain services. The FCC's new definition has ancillary implications for compliance with the ETC requirement to be a facility-based carrier. Although the MoPSC has the discretion to differ from the FCC's definition, as long as the deviation does not conflict with FCC requirements, Staff recommends the Commission incorporate the FCC's definition for voice telephony service. In Staff's opinion, the existing definition for essential telecommunications services is outdated using terminology solely applicable to traditional landline carriers. If the Commission wants to somehow retain this definition and accommodate all of OPC's concerns then the definition needs to be significantly revised to accommodate other forms of technology (i.e. wireless and IVoIP), and to make sure there are no conflicts with a MO-specific definition and the FCC definition.*

***In response to OPC's concerns, Staff added other provisions to this rulemaking** to enable the Commission to monitor the impact of adopting the FCC's voice telephony service definition. For example this rulemaking proposes ETC applications include a description of whether the applicant will provide access to directory assistance services, operator services and interexchange services **(4 CSR 240-31.130(1)(B) 14)**. Likewise this rulemaking proposes to require existing ETCs to include in annual filings to the Commission a statement as to whether the company continues to offer access to these services **(4 CSR 240-31.130(3)(A)I.H)**. In this regard the MoPSC will be able to monitor this issue and address it on a case-by-case basis instead of applying the requirement unilaterally.*

Section (14):

MTIA: Should retain high-cost language in rule to better track with statute.

Office of Public Counsel: Concern of removing from definition all references to MoUSF high-cost support. Definition should at least acknowledge MoUSF can be used for this purpose.

MoPSC Staff response: *Staff's recommendation is to reference the statute and have the rule indicate how the MoUSF is currently used. In Staff's opinion, this arrangement generates less confusion by minimizing the perception the MoUSF is currently used to provide high-cost support.*

PROPOSED AMENDMENT

4 CSR 240-31.010 Definitions

PURPOSE: This rule is amended ensure that necessary terms used in Chapter 31 are defined consistently with current law and applicability.

(1) ~~[Applicable]~~ **Assessable** carrier—All **registered interconnected VoIP providers and certificated** telecommunications companies ~~[certificated to provide telecommunications services in Missouri]~~ except: pay telephone providers, shared tenant services (STS) providers, and those companies with annual net jurisdictional revenue below a *de minimis* level of twenty-four thousand dollars (\$24,000).

(2) Board---refers to the ~~[(10)]~~ Missouri Universal Service Board~~[- (board)---The board]~~ established by section 392.248.1, RSMo 2000 and comprised of members of the commission and the Public Counsel, which shall supervise the management of the MoUSF.

(3) [(2)]Commission—The Missouri Public Service Commission.

~~[(3)---Cost Cost of a telecommunications company in providing essential local telecommunications service as determined by the commission.]~~

~~[(4) Disabled customer Any customer who requests or receives residential essential local telecommunications service and who meets the definition of “disabled” set out in section 660.100.2, RSMo 2000 or a customer who has a dependent that meets the definition of “disabled” set out in section 660.100.2 and is residing in the customer’s household.]~~

(4) Disabled Program – the program that offers discounted voice telephony service to Missourians with certain disabilities as defined by 4 CSR 240-31.120(1)(C).

~~[(5) Economically disadvantaged customer—see low income customer.]~~

(5) Eligible telecommunications carrier (ETC) -- is a carrier designated as such by the Missouri Public Service Commission pursuant to 47 U.S.C 214(e) and 47 CFR Part 54 Subpart C. ETC designation allows a carrier to receive FUSF support from the high-cost and/or Lifeline programs and to receive MoUSF support from the Lifeline or Disabled programs.

(6) Essential local telecommunications services – **this phrase is synonymous with “voice telephony service” as defined by 4 CSR 240-31.010(18).** ~~[Two (2) way switched voice residential service within a local calling scope as determined by the commission, comprised of the following services and their recurring charges:~~

~~(A) Single line residential service, including Touch Tone dialing, and any applicable mileage or zone charges;~~

~~(B) Access to local emergency services including, but not limited to, 911 service established by local authorities;~~

~~(C) Access to basic local operator services;~~

~~(D) Access to basic local directory assistance;~~

~~(E) Standard intercept service;~~

~~(F) Equal access to interexchange carriers consistent with rules and regulations of the Federal Communications Commission (FCC);~~

~~(G) One (1) standard white pages directory listing; and~~

~~(H) Toll blocking or toll control for qualifying low income customers.]~~

(7) Federal Communications Commission (FCC) – the federal agency charged with oversight of the federal Universal Service Fund and which places certain responsibilities on the commission, through the promulgation of federal rules pursuant to federal statutes, in filling that oversight obligation,

(8) Federal Universal Service Fund (FUSF) – The federal program that provides funds to companies that offer free or reduced-price voice telephony service to low-income households.

(9) Federal Universal Service Fund Administrator (FUSFA) - is an independent, not-for-profit corporation created to administer the federal universal service programs under the oversight of the FCC.

~~{(8) Local calling scope The geographic area determined by a local exchange telecommunications company's tariffs filed with and approved by the commission, within which telecommunications service is furnished under a non-optional, flat, monthly rate. A local calling scope may include one (1) or more exchange service areas.}~~

~~{(9) Low-income customer Any customer who requests or receives residential essential local telecommunications service and who participates or has a dependent residing in the customer's household who participates in a program pursuant to 42 U.S.C. sections 1396-1396v, food stamps (7 U.S.C. section 51), Supplementary Security Income (SSI) (42 U.S.C. section 7), federal public housing assistance or Section 8 (42 U.S.C. section 8), National School Lunch Program's free lunch program (42 U.S.C. section 13), Temporary Assistance for Needy Families (42 U.S.C. section 7(IV)), or Low Income Home Energy Assistance Program (LIHEAP) (42 U.S.C. section 94).}~~

(10) Household -- is defined by 47 CFR Part 54.400(h) which consists of any individual or group of individuals who are living together at the same address as one economic unit. A household may include related and unrelated persons. An "economic unit" consists of all adult individuals contributing to and sharing in the income and expenses of a household. An adult is any person eighteen years or older. If an adult has no or minimal income, and lives with someone who provides financial support to him/her, both people shall be considered part of the same household. Children under the age of eighteen living with their parents or guardians are considered to be part of the same household as their parents or guardians.

(11) Income -- is defined by 47 CFR Part 54.400(f) which consists of all income actually received by all members of a household. This includes salary before deductions for taxes, public assistance benefits, social security payments, pensions, unemployment compensation, veteran's benefits, inheritances, alimony, child support payments, worker's compensation benefits, gifts, lottery winnings and the like. The only exceptions are student financial aid, military housing and cost-of-living allowances, irregular income from occasional small jobs such as baby-sitting or lawn mowing and the like.

(12) Interconnected Voice over Internet Protocol (VoIP) – is a service that enables real-time, two-way voice communications, requires a broadband connection from the user's location, requires Internet protocol-compatible customer premises equipment, and permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network;

(13) Lifeline Service -- refers to a retail voice telephony service offering with free or reduced monthly charges to qualifying low-income consumers. Lifeline is a government funded program provided as described in 47 CFR Part 54 Subpart E and these rules.

~~{(11)}~~ **(14) MoUSF-- refers to the** Missouri Universal Service Fund. ~~{(MoUSF or Fund) The universal service fund}~~ **The various purposes for the MoUSF are** established by section 392.248, RSMo 2000. **The MoUSF is currently** used[:

~~(A) To ensure the provision of reasonably comparable essential local telecommunications service, as defined in this rule, throughout the state including high cost areas, at just, reasonable, and affordable rates;~~

~~(B) T] to assist low-income customers and disabled customers in obtaining affordable essential telecommunications services[;~~

~~(C) T] and to pay the reasonable, audited costs of administering the MoUSF.]; and~~

~~(D) To permit eligible incumbent local exchange companies to recover the reasonably projected changes in revenues from reductions in Federal Universal Service Fund (USF) payments caused by changes to the Federal USF program announced by the FCC no later than December 31, 1997, as determined by the commission.]~~

~~{(7)}~~ **(15) Missouri Universal Service** Fund Administrator (**MoUSFA**)— The agency, individual, firm, partnership, or corporation selected by the ~~[Missouri Universal Service]~~ board to act as the independent neutral administrator of the ~~[Missouri Universal Service Fund]~~ **MoUSF**.

(16) MoUSF web site --The MoUSF web site is www.missouriusf.com or www.mousf.com. The web site contains various forms and information as directed by the board regarding the administration of the MoUSF.

(17) ~~{(12)}~~ Net jurisdictional revenue—Net jurisdictional revenue shall include all **retail** revenues ~~[received by an applicable carrier from retail customers]~~ resulting from the provision of intrastate regulated telecommunications **and IVoIP** services, but shall not include revenue from payphone operations, taxes and uncollectibles. **Wholesale** ~~[R]~~revenues received from another provider of **voice telephony service** ~~[telecommunications services]~~ for the provision of switched and special exchange access services and for the provision of unbundled network elements and resold services, shall not be considered retail revenues.

~~{(13) Toll blocking—“Toll blocking” is a service provided by carriers that lets customers elect not to allow the completion of outgoing toll calls from their telecommunications channel.]~~

~~{(14) Toll control—“Toll control” is a service provided by carriers that allows customers to specify a certain amount of toll usage that may be incurred on their telecommunications channel per month or per billing cycle.]~~

(18) Voice telephony service refers to voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and toll limitation services to qualifying Lifeline consumers. Toll limitation service does not need to be offered for any Lifeline service that does not distinguish between toll and non-toll calls in the pricing of the service.

(19) Wireless service - refers to commercial mobile radio service as identified in 47 CFR Parts 20 and 24.

AUTHORITY: section 392.200.2, HB 1779, Second Regular Session, Ninety-fourth General Assembly, 2008 and sections 392.248 and 392.470.1, RSMo 2000. Original rule filed Aug. 15, 1997, effective April 30, 1998.*

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 not 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-2012-0 _____. 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.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 31—[Missouri] Universal Service [Fund]

Comments for 31.020

Sections (5) and (6):

Office of Public Counsel: This portion of the rule referencing the Office of Administration does not need to be in these rules for OA has no authority over the board. (see attached OPC comments)

MoPSC Staff response: *OA has no authority over the board; however, the proposed rule simply requires the board to **follow the procedures** established by OA and codifies existing procedures of the board's process for selecting a MoUSFA and independent auditor. Such procedures are not identified in any other documents. Staff recommends identifying these procedures in these rules.*

Section (9):

Essentially all five parties recommend the MoPSC provide some flexibility in using a company-specific form.

MTIA: ETC should have the flexibility to use a form that simply meets FCC threshold requirements. MTIA essentially recommends this type of rule language, "All ETCs shall use the form established by the board or a form which complies with 47 CFR 54.410." MTIA repeated this feedback in recent comments. MTIA claims allowing a company to use a form that simply complies with FCC rules will help reduce administrative costs for carriers.

Cricket: Unreasonable and unnecessary to require every ETC to use a single, uniform form. Cricket cites many reasons for allowing a company to use their own form (company systems, FCC compliance plans require other language; most states allow company-specific forms). Wisconsin has generic form but permits company-specific forms. Cricket repeated concerns about using a single, uniform and bureaucratic customer application form. Cricket provides seven reasons to allow ETCs to use their own company-specific form.

T-Mobile: Should allow companies to use own form. ETCs have adequate incentive to use a form compliant with FCC rules because if found deficient may be subject to forfeitures of funds. Cost/complexity concerns of using generic form. Generic form has problems: (1) Statement about de-enroll if fail to use in 60 days. (2) Generic form is specific to voice but doesn't contemplate data or bundled offerings.

Virgin Mobile: \$10,000 up-front cost and \$80 per 1,000 applications if require ETCs to use generic form. If Missouri's generic form is required then allow non-substantive information to be inserted into the form without adding extra pages. Should allow a bar code.

TracFone: A uniform form is burdensome and counterproductive. TracFone operates in 41 states and Missouri is the only state requiring all companies to use the same form. TracFone's form is user friendly while Missouri's form is likely to result in confusion. Billing address information is unnecessary for TracFone. Can't validate DCN information. Unclear of the MoPSC's purpose to require generic form. Suggests MoPSC adopt certain form requirements without requiring the use of a specific form.

MoPSC Staff response: *Proposed rule language is based on Board's direction. Staff rejects Virgin Mobile's fiscal impact on the basis the Missouri Commission rules have always required a company to use a board-approved form; Virgin Mobile doesn't even have ETC status at this time.*

Additional provision:

MTIA: In recent feedback MTIA requests language be inserted allowing variances or waivers of these rules.

MoPSC Staff response: *Such language contemplating variances or waivers is in 4 CSR 240-31.130(4)(D) of this rulemaking. In verbal follow-up discussion with MTIA this provision may be sufficient to address MTIA's concern; however, some discussion whether the MoUSF Board should also have the ability to grant variances or waivers of these rules.*

PROPOSED AMENDMENT

4 CSR 240-31.020 Organization, Powers and Meetings of the Board

PURPOSE: This amendment clarifies and specifies the organization and meetings of the board and other related responsibilities.

(1) [~~Within thirty (30) days after the effective date of this rule~~], **Each year during the months of January or February,** the board shall convene [~~its initial organizational~~] **an annual** meeting, at which time it shall elect a chairperson, a secretary, and such other officers as the board deems appropriate.

(A) The chairperson shall preside over the initial, the regular and any special meetings of the board unless otherwise provided by a majority of the board.

(B) The secretary shall be responsible for recording the minutes of the meetings of the board, which minutes shall be open records in accordance with Chapter 610, RSMo Supp. 1997.

(C) Other officers of the board shall have those responsibilities as are delegated to them by the board.

(D) The board shall designate a member of the staff of the commission or public counsel to serve as the custodian of records. The custodian of records shall serve as such until replaced by the board. The custodian of records shall be responsible for maintaining all records of the board either on paper in the commission's offices or on the MoUSF web site.

(E) The board shall designate a member of the staff of the commission or public counsel to serve as the board's general counsel. The general counsel shall consult with and advise the board on legal matters as the board may require.

(F) The board may designate one or more members of the staff of the commission and the Public Counsel to serve as the board's staff, to which it may delegate the day-to-day operations of the board, such as interacting with the MoUSFA, reviewing the work, books and invoices of the MoUSFA and such other work as the board deems appropriate.

(2) The principal office of the board is located at the offices of the [~~Missouri Public~~] **commission** in Jefferson City, Missouri.

(3) [~~The initial, regular, and any special~~] **Any** meetings of the board [~~shall~~] **may** be held in [~~the agenda room of the commission unless otherwise~~] **any location within the State of Missouri, as**

posted on its meeting agenda. All meetings of the board shall be open to the public in accordance with Chapter 610, RSMo Supp. 1997. The meeting agenda, consisting of the time of each meeting and the matters to be discussed, will be posted at the commission offices and ~~[will also be available to the public by accessing the commission's home page on the Internet]~~ on the MoUSF web site at least 24 hours in advance of a board meeting.

(4) A simple majority of the board, consisting of a majority of the appointed qualified Public Service Commissioners and an appointed and qualified Public Counsel, will constitute a quorum for the transaction of business, the performance of any duty, or the exercise of any power by the board. Members of the board may appear by telephone, video conference, internet connection or any other technology that allows them to contemporaneously participate in board discussions and votes and that allows the public attending the meeting to hear such discussion and votes.

~~[(5) At the initial meeting of the board, or no later than thirty (30) days thereafter, the board will develop, and submit to the commission for its approval, a plan of operation for the Missouri Universal Service Fund (MoUSF) in accordance with section 392.248.8, RSMo Supp. 1997.]~~

~~[(6)]~~ **(5)** The board shall ~~[adopt procedures, which will include a]~~ follow the procedures established by the Office of the Administration in completing a competitive bid process~~[-]~~ to retain an independent neutral ~~[Fund Administrator]~~ MoUSFA, who will be responsible for the day-to-day operations of the MoUSF. ~~[These]~~ The board shall also adopt procedures ~~[shall]~~ to provide, among other things, for the periodic review of the ~~[Fund Administrator]~~ MoUSFA and the opportunity ~~[for selection of an alternative]~~ to re-bid the contract for the ~~[Fund Administrator]~~ MoUSFA no less frequently than every ~~[four (4)]~~ five (5) years. The board may establish other procedures as needed to facilitate the orderly administration of the MoUSF.

(6) The board shall follow the procedures established by the Office of the Administration in completing a competitive bid process to retain the services of an accounting firm to audit the MoUSF on an annual basis, to complete the board's state and federal tax filings and perform other accounting duties it may require. The board may choose more than one such firm to perform the duties under the contract, assigning different tasks to each accounting firm. The board shall also adopt procedures to periodically review the work of the accounting firm(s) and to re-bid the contract(s) no less frequently than every five (5) years.

(7) The board shall ~~[also]~~ have the power to propose to the commission ~~[for its adoption such additional]~~ new or amended rules ~~[-or modifications to existing rules, which in the board's judgment are]~~ as it deems necessary and convenient to further implement and administer the MoUSF.

(8) The board will meet at least twice a year; however, except for the annual meeting, there are no constraints on the timing of the board's meetings.

(9) The board may establish a form for ETCs to use to enroll end-users in the Lifeline or Disabled programs and shall post a generic acceptable form on its web site. All ETCs shall use the form established by the board. If a company wants to provide additional information for the applicant, such as that information which is interpreted by the company as required by an FCC compliance order, then a company may be permitted to attach an additional sheet(s) to the form. At least one business day prior to use, the ETC shall electronically submit a copy of such additional sheet(s) to the board staff. If the additional sheet(s) is changed, the ETC shall electronically submit a copy of that additional sheet(s) to the board staff with the changes highlighted, at least one business day prior to

the use of the changed form. There is no obligation on the board or its staff to review or approve such sheet(s).

[(8)] **(10)** Nothing in these rules shall require the board to take any actions that are inconsistent with **state or** federal statutes, administrative rules, or court decisions concerning the provision of [~~essential local telecommunications service~~] **voice telephony service.**

AUTHORITY: sections 392.200.2 and 392.248, RSMo Supp. 1997 and 392.470.1, RSMo 1994.

** Original rule filed Aug. 15, 1997, effective April 30, 1998. *Original authority: 392.200, RSMo 1939, amended 1987, 1988, 1996; 392.248, RSMo 1996; and 392.470.1, 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 not 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-2012-0 _____. 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.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 31—~~[Missouri]~~ Universal Service ~~[Fund]~~

PROPOSED AMENDMENT

4 CSR 240-31.030 The MoUSFA ~~[Fund Administrator]~~

PURPOSE: This amendment modifies the qualifications for and the responsibilities of the MoUSFA.

(1) The ~~[Fund Administrator]~~ **MoUSFA** may be an agency, individual, firm, partnership or corporation. It shall be neutral and independent from the commission, the public counsel and any telecommunications or IVoIP company. It may not have any financial interest in a telecommunications company, IVoIP company, wireless carrier or any other provider of voice telephony service. ~~[as defined by section 386.020(51), RSMo 2000, or in any other communications company including, but not limited to, a wireless carrier or cable television company.]~~

(2) The ~~[Fund Administrator]~~ **MoUSFA** shall be a fiduciary with trust company powers. It shall keep the books and records relating to its administration and operation of the ~~[Missouri Universal Service Fund -]~~ MoUSF~~[+]~~ in accordance with generally accepted accounting principles. Books and records of the ~~[Fund Administrator]~~ **MoUSFA** shall be open records in accordance with Chapter 610, RSMo 2000 and shall be audited on an annual basis by an independent auditor selected by the board. Records containing company-specific information shall not be open records unless release is approved and authorized by the board following notification to and an opportunity to object by the company. The requestor seeking release of company-specific information should submit the request to the secretary of the board, who shall provide the company with prompt notice of the request. The requestor shall be responsible for supporting its request before the board. The decision of the board shall be reviewable pursuant to the provisions of this chapter.

(3) The ~~[Fund Administrator]~~ **MoUSFA** is authorized to establish accounts with a bank of this state for the deposit of moneys into the MoUSF. The ~~[Fund Administrator]~~ **MoUSFA** shall ensure that the moneys deposited in the MoUSF are insured to the maximum extent permitted by law and that they earn a return commensurate with other moneys of the state on deposit with banks.

(4) The MoUSFA shall submit a monthly report to the board that includes, at a minimum, the current funding level of the MoUSF and an approximation of how many month's funding is contained in that balance. Additional requirements may be included in the MoUSFA contract.

AUTHORITY: sections 392.200.2, RSMo Supp. 2004 and 392.248 and 392.470.1, RSMo 2000. Original rule filed Aug. 15, 1997, effective April 30, 1998. Amended: Filed June 30, 2005, effective Feb. 28, 2006. *Original authority: 392.200, RSMo 1939, amended 1987, 1988, 1996, 2003; 392.248, RSMo 1996; and 392.470.1, 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 not cost private entities more than five hundred dollars (\$500) in the aggregate.

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Title 4 – DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240 – Public Service Commission
Chapter 31 – Missouri Universal Service Fund

PROPOSED RECISSION

4 CSR 240-31.040 Eligibility for Funding—High Cost Areas. This rule set out the procedures for eligible telecommunications companies to receive high-cost support.

PURPOSE: This rule is rescinded because the Missouri Universal Service Fund does not currently provide high-cost support and is not expected to provide such funding in the foreseeable future.

AUTHORITY: sections 392.200.2 and 392.248, RSMo Supp. 1997 and 392.470.1, RSMo 1994. Original rule filed Aug. 15, 1997, effective April 30, 1998. *Original authority: 392.200, RSMo 1939, amended 1987, 1988, 1996; 392.248, RSMo 1996; and 392.470.1, RSMo 1987. Rescinded:*

PUBLIC COST: Adoption of this proposed rule will not cost affected state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: Adoption of this proposed rule will not cost affected private entities more than \$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-2012-0 _____. 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.

Title 4 – DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240 – Public Service Commission
Chapter 31 – Missouri Universal Service Fund

PROPOSED RECISSION

4 CSR 240-31.050 Eligibility for Funding—Low-Income Customers and Disabled Customers. This rule is replaced by proposed rule 4 CSR 240-31.120, which is clearer and reflects current law and practice.

PURPOSE: This rule is rescinded because it will be replaced by a new rule that combines some sections and adds the required federal mandates concerning initial and continued eligibility for end-user customers.

AUTHORITY: sections 386.250(2), 392.210.2, 392.248, and 392.470.1, RSMo 2000 and section 392.200, RSMo Supp. 2007. Original rule filed Aug. 15, 1997, effective April 30, 1998. Amended: Filed Oct. 30, 2002, effective July 30, 2003. Emergency amendment filed May 31, 2005, effective June 10, 2005, expired Feb. 15, 2006. Amended: Filed June 30, 2005, effective Feb. 28, 2006. Amended: Filed Nov. 20, 2007, effective June 30, 2008. *Original authority: 386.250, RSMo 1939 amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996; 392.200, RSMo 1939, amended 1987, 1988, 1996, 2003, 2005; 392.210, RSMo 1939 amended 1984, 1987; 392.248, RSMo 1996; and 392.470.1, RSMo 1987. Rescinded:*

PUBLIC COST: Adoption of this proposed rule will not cost affected state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: Adoption of this proposed rule will not cost affected private entities more than \$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-2012-0 _____. 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.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 31—[Missouri] Universal Service [Fund]

PROPOSED AMENDMENT

4 CSR 240-31.060 The MoUSF Assessment~~[s for MoUSF Funding]~~

PURPOSE: This amendment clarifies the MoUSF assessment process.

(1) All **assessable** ~~[applicable]~~ carriers ~~[providing telecommunications service as defined in section 386.020(53), RSMo 2000 in Missouri]~~ will be subject to **the MoUSF** assessment ~~[for contributions to the Missouri Universal Service Fund (MoUSF)]~~.

(2) **The MoUSF a**~~[A]~~ssessment~~[s for the MoUSF will be]~~ **is** based on **an assessable carrier's** ~~[the]~~ Missouri net jurisdictional revenues ~~[of each applicable carrier and other nondiscriminatory factors as determined by the commission]~~.

(3) ~~[Assessments will be based on the level of net jurisdictional revenues from the preceding calendar year or for some shorter time period as may be determined by the commission.]~~

~~[(4) Collection of Data for]~~ Assessment[s] **Level**.

~~(A) [The commission will furnish to the Fund Administrator by December 31 of each year, or more frequently as may be determined by the commission, a list of all telecommunications companies holding certificates of service authority in the state of Missouri.]~~

~~(B)]~~ **In February each year, [T]he [Fund Administrator] [periodically] MoUSFA shall issue a form on which** ~~[submit to]~~ each **registered IVoIP provider and certificated** telecommunications company ~~[a]~~ **shall certify the company's** ~~[request for information regarding its]~~ Missouri net jurisdictional revenues **for the prior calendar year**.

(B) Companies shall be given ~~[Such report will be due to the Fund Administrator]~~ ninety (90) days **to complete and return the form**~~[from the receipt of the request]~~.

(C) The MoUSFA shall regularly monitor the MoUSF's balance, disbursements, remittances and other relevant information to ensure a reasonable MoUSF balance. The MoUSF Fund balance should be within a target range of five to nine months worth of MoUSF expenses, or as otherwise determined by the board.

(D) The MoUSFA shall submit in each monthly report to the board a recommendation to maintain, increase or decrease the assessment level. Any assessment adjustment recommendation must be accepted by the board and then approved by commission order before going into effect.

(E) If the commission approves an assessment adjustment, it shall notify all assessable carriers of a change in the assessment. Notice should be provided to carriers at least sixty days in advance of any change to the assessment.

(F) The MoUSF web site shall readily identify the current assessment level as well as give notice of any pending assessment adjustments.

(4) Collection of MoUSF assessment from customers.

(A) All assessable carriers shall place on each retail end-user customer's bill, a surcharge equal to the percentage assessment ordered by the commission.

(B) The surcharge shall appear as a separate line item detailed as "Missouri Universal Service Fund."

(C) The surcharge percentage shall be applied to each customer's total charges associated with the carrier's net jurisdictional revenues.

(D) A carrier shall not recover its MoUSF assessment in any way other than through this surcharge.

~~[(5) Determination of Assessments.~~

~~(A) The Fund Administrator shall summarize the funding requests from companies serving high cost areas and from companies providing service to low income customers and disabled customers to calculate a statewide funding requirement for the MoUSF. At the inception of the fund, the Fund Administrator may also make estimates of the funding requirements for those companies whose funding has not been finally determined.]~~

~~(B) The Fund Administrator shall submit to the board its determination of the funding requirements, along with its determination of the revenues upon which the assessment shall be made, and the percentage assessment to be made upon the net jurisdictional revenues of each applicable carrier.~~

~~(C) The board shall review the Fund Administrator's submission and authorize an appropriate percentage assessment to be submitted to the commission for approval to be made upon the applicable revenues to each Missouri applicable carrier to provide funding for the MoUSF.]~~

(5) Remitting MoUSF assessments.

(A) All assessable carriers shall remit in either of the following methods:

1. The carrier may remit all funds received as a result of the application of the MoUSF surcharge as provided in (4) above, in full satisfaction of a carrier's annual percentage assessment, or

2. The carrier may remit an amount based solely on applying the percentage assessment to the carrier's Missouri net jurisdictional revenue. If this method is used, no refunds shall be given if a carrier subsequently finds it remitted more than it collected.

(B) The MoUSFA shall publish on the MoUSF web site remittance procedures and deadlines for remitting payments. Remittances shall generally be made on a monthly basis; however, quarterly payments may be allowed as described on the MoUSF web site.

(C) Failure to submit payments in a timely manner shall result in late payment fees as determined by the board. Waiver of such late payment fees may be considered if an explanation of why a waiver should be granted is submitted in writing to the MoUSFA within thirty days of being notified of the initial late payment fee. Waivers shall only be granted by the board or as delegated by the board to its staff.

~~[(6) Notices of Assessments.~~

~~(A) Notices of assessment, as determined under 4 CSR 240-31.060(5)(B) above, shall be sent by the Fund Administrator to every applicable carrier.~~

~~(B) Payments shall generally be assessed to be paid on a monthly basis although the Fund Administrator may establish payments on a quarterly or annual basis for those companies where it would be inefficient to collect payments on a monthly basis.]~~

~~[(7) Adjustments to Assessments.~~

~~(A) The Fund Administrator will report to the board on a monthly basis the status of fund receipts and disbursements. Included in this report will be the Fund Administrator's assessment~~

~~of the appropriateness of the current assessment level in relationship to known fund requirements.~~

~~(B) The Fund Administrator will recommend to the board, or the board on its own action, may implement changes in assessment levels as is appropriate to adjust the fund's receipts to meet its funding obligations.}~~

AUTHORITY: sections 392.200, RSMo Supp. 2004 and 392.248 and 392.470.1, RSMo 2000. Original rule filed Aug. 15, 1997, effective April 30, 1998. Amended: Filed Oct. 30, 2002, effective July 30, 2003. Amended: Filed June 30, 2005, effective Feb. 28, 2006. *Original authority: 392.200, RSMo 1939, amended 1987, 1988, 1996, 2003; 392.248, RSMo 1996; and 392.470.1, 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 not 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-2012-0 _____. 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.

Title 4 – DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240 – Public Service Commission
Chapter 31 – Missouri Universal Service Fund

PROPOSED RECISSION

4 CSR 240-31.065 Collection of MoUSF Surcharge from End-User Subscribers. The pertinent parts of this rule have been incorporated into 4 CSR 240-31.060.

PURPOSE: This rule is rescinded because the Missouri Universal Service Fund does not currently provide high-cost support and is not expected to provide such funding in the foreseeable future. The parts of this rule that did not pertain to high-cost funding have been incorporated in another rule, so that all requirements pertaining to assessments and surcharges are in a single rule.

AUTHORITY: sections 392.200.2, 392.248, and 392.470, RSMo 2000. Original rule filed Oct. 30, 2002, effective July 30, 2003. *Original authority: 392.200 RSMo 1939 amended 1987, 1988, 1996; 392.245, RSMo 1996; and 392.470, RSMo 1987. Rescinded:*

PUBLIC COST: Adoption of this proposed rule will not cost affected state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: Adoption of this proposed rule will not cost affected private entities more than \$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-2012-0 _____. 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.

Title 4 – DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240 – Public Service Commission
Chapter 31 – Missouri Universal Service Fund

PROPOSED RECISSION

4 CSR 240-31.070 Receipt of MoUSF Funds. This rule set out the procedures for eligible telecommunications companies to receive high-cost support, except section (5), which pertained to both low-income and high-cost support. Section (5) has been incorporated into 4 CSR 240-31.040.

PURPOSE: This rule is rescinded because the Missouri Universal Service Fund does not currently provide high-cost support and is not expected to provide such funding in the foreseeable future.

AUTHORITY: sections 392.200.2 and 392.248, RSMo Supp. 1997 and 392.470.1, RSMo 1994. Original rule filed Aug. 15, 1997, effective April 30, 1998. *Original authority: 392.200, RSMo 1939, amended 1987, 1988, 1996; 392.248, RSMo 1996; and 392.470.1, RSMo 1987. Rescinded:*

PUBLIC COST: Adoption of this proposed rule will not cost affected state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: Adoption of this proposed rule will not cost affected private entities more than \$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-2012-0 _____. 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.

Title 4 – DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240 – Public Service Commission
Chapter 31 – Missouri Universal Service Fund

PROPOSED RECISSION

4 CSR 240-31.080 Applications for MoUSF Funds. This rule set out the procedures for eligible telecommunications companies to receive high-cost support.

PURPOSE: This rule is rescinded because the Missouri Universal Service Fund does not currently provide high-cost support and is not expected to provide such funding in the foreseeable future.

AUTHORITY: sections 392.200.2, RSMo Supp. 2004 and 392.248 and 392.470.1, RSMo 2000. Original rule filed Aug. 15, 1997, effective April 30, 1998. Amended: Filed June 30, 2005, effective Feb. 28, 2006. *Original authority: 392.200, RSMo 1939, amended 1987, 1988, 1996, 2003; 392.248, RSMo 1996; and 392.470.1, RSMo 1987. Rescinded:*

PUBLIC COST: Adoption of this proposed rule will not cost affected state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: Adoption of this proposed rule will not cost affected private entities more than \$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-2012-0 _____. 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.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 31—~~[Missouri]~~ Universal Service ~~[Fund]~~

PROPOSED AMENDMENT

4 CSR 240-31.090 Disbursements of MoUSF Funds

PURPOSE: This amendment clarifies the MoUSF disbursement procedures.

(1) Only ETCs certificated as a telecommunications company or registered as a IVoIP provider are eligible to seek disbursements from the MoUSF by completing an Application for Support Eligibility form available on the MoUSF web site. A completed form must be submitted in a timely manner to the MoUSFA. Failure to apply for support within 3 months of provisioning service to the Lifeline or Disabled customer(s) shall limit support to the amount requested or \$350 (whichever is less).

(2) MoUSF disbursement eligibility depends on an ETC complying with all MoUSF assessment obligations and requirements associated with the Lifeline and/or Disabled programs. If an ETC's compliance is in question, an ETC's application for disbursement shall be held in abeyance until all compliance issues are adequately resolved.

(3) The ~~[Fund Administrator]~~ **MoUSFA** shall make disbursements from the ~~[Missouri Universal Service Fund (-)]~~ MoUSF~~[+]~~ by wire transfer, check or other appropriate means to fund recipients.

(4[2]) The ~~[Fund Administrator]~~ **MoUSFA** shall not make any disbursements to itself unless said disbursements have been first approved by the board.

(5[3]) The ~~[Fund Administrator]~~ **MoUSFA** shall keep accurate and complete records of all disbursements from the fund showing, at a minimum, for each disbursement:

- (A) The recipient;
- (B) The amount of the disbursement;
- (C) The date of the disbursement; and
- (D) The purpose of the disbursement (e.g., ~~[high-cost assistance,]~~ assistance to provide service to low-income customers and/or disabled customers, costs of administering the fund, etc.)

~~[(4) Any interested entity that objects to a disbursement from the MoUSF by the Fund Administrator may seek review of that disbursement by the board and/or the commission pursuant to 4 CSR 240-31.110 of these rules.]~~

AUTHORITY: sections 392.200.2 and 392.248, RSMo Supp. 1997 and 392.470.1, RSMo 1994. Original rule filed Aug. 15, 1997, effective April 30, 1998.*Original authority: 392.200, RSMo 1939, amended 1987, 1988, 1996; 392.248, RSMo 1996; and 392.470.1, 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 not 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-2012-0 _____. 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.

Title 4 – DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240 – Public Service Commission
Chapter 31 – Missouri Universal Service Fund

PROPOSED RECISSION

4 CSR 240-31.100 Review Procedures for Support Payments. This rule set out the procedures for review of high-cost support.

PURPOSE: This rule is rescinded because the Missouri Universal Service Fund does not currently provide high-cost support and is not expected to provide such funding in the foreseeable future.

*AUTHORITY: sections 392.200.2 and 392.248, RSMo Supp. 1997 and 392.470.1, RSMo (1994). *Original rule filed Aug. 15, 1997, effective April 30, 1998. *Original authority: 392.200, RSMo 1939, amended 1987, 1988, 1996; 392.248, RSMo 1996; and 392.470.1, RSMo 1987. Rescinded:*

PUBLIC COST: Adoption of this proposed rule will not cost affected state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: Adoption of this proposed rule will not cost affected private entities more than \$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-2012-0 _____. 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.

**Title 4—DEPARTMENT OF
ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 31—~~[Missouri]~~ Universal Service ~~[Fund]~~**

PROPOSED AMENDMENT

4 CSR 240-31.110 Review of Board and MoUSFA ~~[Fund Administrator]~~ Activities

PURPOSE: This rule modifies the procedures for reviewing any actions taken or decisions issued by the MoUSFA or the board.

(1) Any action taken or decision issued by the MoUSFA ~~[Fund Administrator]~~ may be reviewed by the board. Review may be had upon the board's own motion or upon motion by any interested entity. If an entity other than the board seeks review of the MoUSFA's ~~[Fund Administrator's]~~ action or decision it must do so, in writing, within thirty (30) days of the date upon which the action is taken or the decision is issued. The MoUSFA ~~[Fund Administrator]~~ must, and any other interested entity may, file a written response to the motion for review within ten (10) days after the filing of the motion for review.

(2) Within sixty (60) days of receipt of a motion for review the board shall issue its decision, in writing, affirming, reversing or modifying the action taken or the decision issued by the MoUSFA ~~[Fund Administrator]~~. If the board does not issue its decision within sixty (60) days, then the action taken or decision issued by the MoUSFA ~~[Fund Administrator]~~ shall be deemed to be approved by the board.

(3) Any action taken or decision issued by the board may be reviewed by the commission upon motion by any interested entity, including the MoUSFA ~~[Fund Administrator]~~. Motions for review of any action taken or decision issued by the board must be filed with the commission within thirty (30) days of the date the action is taken or the decision is issued. Any responses to the motion for review must be filed within ten (10) days of the filing of the motion for review. The commission may set the matter for hearing or it may issue its decision based upon the written pleadings. Upon review, the commission shall issue its decision either affirming, reversing or modifying the action taken or decision issued by the board.

(4) The deadlines established by this section may be waived for good cause.

~~(5)~~(4) Review of any commission decision affirming, reversing or modifying the board's action or decision may be sought pursuant to section 386.500, RSMo Supp. 1997, et seq.

AUTHORITY: sections 392.200.2 and 392.248, RSMo Supp. 1997 and 392.470.1, RSMo 1994. Original rule filed Aug. 15, 1997, effective April 30, 1998. *Original authority: 392.200, RSMo 1939, amended 1987, 1988, 1996; 392.248, RSMo 1996; and 392.470.1, 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 not 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-2012-0 _____. 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.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 31—[Missouri] Universal Service [Fund]

Comments for 4 CSR 240-31.120

Subsection (2)(C):

MTIA: add “or Disabled” in subsection (2)(C) to require annual recertification of disabled subscribers. MTIA repeated this feedback in the latest round of comments.

MoPSC Staff response: *Staff questions the necessity of annually verifying the continued eligibility of disabled subscribers but nevertheless Staff has further revised to try and resolve MTIA’s feedback. The proposed revision attempts to provide companies with the flexibility to choose between two procedures for the annual recertification of disabled subscribers.*

Subsection (2)(C):

MTIA: Delete Subsection to track with federal requirements.

T-Mobile: Differs from FCC’s 54.410(f) requirements. Should simply reference FCC’s rule.

MoPSC Staff response: *Proposed rule is intentionally making Missouri’s annual verification requirements more stringent than federal requirements. Subscribers should be required to periodically submit continued proof of eligibility. Many companies already require proof of eligibility in their annual verifications of continued eligibility.*

Subsection (2)(D):

MTIA: Recommends deletion of Subsection.

MoPSC Staff response: *Disagree. This Subsection proposes to require a company to annually verify the qualifying disabled consumer still resides in the household if voice service is in another person’s name. Such verification is reasonable and should remain in this rulemaking.*

Subsection (3)(A):

See prior comments of **MTIA, Cricket, T-Mobile, Virgin Mobile, and TracFone** expressing concerns with the requirement for all companies to use the board’s generic form.

MoPSC Staff response: *Proposed rule language is based on Board direction.*

Subsection (3)(C):

MTIA: Recommends deletion because redundant and places ETCs in position to police undefined standards. 31.120(3)(A) already requires adequate proof of eligibility while 31.120(4) establishes de-enrollment procedures.

MoPSC Staff response: *Staff does not find MTIA’s arguments to be persuasive. This requirement is simply attempting to guard against consumers applying to the program under a false name, incorrect address and other information required on the form including the submission of fraudulent proof of eligibility, **if discovered**. Such situations are not clearly addressed in the rules cited in MTIA’s comments.*

Subsection (4)(D):

MTIA: Need to strive for clearer language that also mirrors FCC rules in 54.405(e). Also, the

“temporary address follow-up” FCC rule has not taken effect and is unlikely to do so. Offers specific wording for the rule.

Cricket: The FCC’s rule requiring re-certification of temporary address has not gone into effect. Cricket’s recent comments claim the revised temporary address provision remains problematic because “temporary address” is not defined, nor is it clear what the purpose is for use of this term. Cricket questions why de-enrollment of a Lifeline customer for failure to respond to the ETC’s address re-certification attempts regarding a temporary address should be any different than de-enrollment of any other Lifeline customer for failure to re-certify the customer’s continued eligibility. Cricket also points out under FCC rules customers are required to notify carriers within 30 days of a move and this requirement doesn’t carve-out an exception for temporary addresses. In this regard Cricket contends the temporary address provision is unnecessary.

T-Mobile: FCC rules require written notice of impending de-enrollment if state dispute procedures governing Lifeline require written notice. Wireless carriers are not subject to MoPSC rule 33.080 but if insist on providing notice of de-enrollment prefer option of using electronic means of providing notice.

MoPSC Staff response: *Staff disagrees with T-Mobile’s claim that wireless carriers are not subject to the MoPSC rule. Staff has revised the rule primarily based on MTIA’s proposed wording; however, this revision should also address T-Mobile’s concern. Staff has retained rule language regarding subscribers with temporary addresses. In response to comments that the FCC has not implemented FCC rule 54.410(g) requiring temporary subscribers to recertify every 90 days, Staff has inserted “if implemented” into this part of the proposed rule. It is true the FCC rule has withdrawn its request for approval of FCC rule 54.410(g). Nevertheless, the FCC has suggested it will ultimately resubmit this rule (see FCC’s Waiver Order issued in WC Docket No. 11-12 (DA 12-863) released May 31, 2012, paragraph 10). Given that this provision will only go into effect if the FCC’s rule becomes effective, Staff fails to understand Cricket’s continued concerns about this provision.*

PROPOSED RULE

4 CSR 240-31.120 Lifeline Program and Disabled Program

PURPOSE: This proposed rule identifies requirements for participating in the Lifeline and/or Disabled programs. Any ETC participating in the Lifeline program must comply with these rules, including an ETC solely receiving federal Lifeline support.

(1) Lifeline and Disabled Programs Described.

(A) The Lifeline program eligibility criteria include participation in:

1. MO HealthNet (formerly “Medicaid”) or any program pursuant to 42 U.S.C. §§ 1396-1396v;
2. Supplemental Nutrition Assistance (“Food Stamps”) or any program pursuant to 7 U.S.C. § 51;
3. Supplemental Security Income, or any program pursuant to 42 U.S.C. § 7;

4. Low-Income Home Energy Assistance (“LIHEAP”) or any program pursuant to U.S.C. §94;

5. Federal Public Housing Assistance (“Section 8”) or any program pursuant to 42 U.S.C. §8);

6. National School Free Lunch Program pursuant to 42 U.S.C. §13);

7. Temporary Assistance for Needy Families pursuant to 42 U.S.C. section 7(IV);

or

8. A consumer’s household income is at or below 135% of the federal poverty level.

9. Any other eligibility criteria as determined by the FCC to be applicable in all states or as identified in FCC rule 47 CFR 54.409.

(B) The Lifeline program is funded by the FUSF and the MoUSF. An ETC participating in the Lifeline program shall comply with this rule even if it solely receives only federal support.

1. The FUSF Lifeline funding is specified in 47 CFR 54.403. This funding is available to all designated ETCs.

2. The MoUSF Lifeline funding is \$3.50 per month per Lifeline subscriber for ETCs certificated as a telecommunications company or registered as an IVoIP provider.

3. MoUSF Lifeline funding when combined with FUSF Lifeline funding shall not exceed the sum of an ETC’s local voice telephony service monthly rate and subscriber line charge.

(C) The Disabled program is a residential retail service that offers a qualifying disabled customer reduced charges for voice telephony service. The Disabled program is solely administered by the board through these rules and is solely funded by the MoUSF.

1. The Disabled program eligibility criteria include participation in:

A. Veteran Administration Disability Benefits;

B. State Blind Pension;

C. State Aid to Blind Persons;

D. State Supplemental Disability Assistance;

E. Federal Social Security Disability; or

F. Federal Supplemental Security Income.

2. The MoUSF provides \$3.50 per month per disabled subscriber; however, MoUSF support is limited to telecommunications companies and interconnected VoIP providers. MoUSF support is not available to wireless carriers.

(2) Carrier Participation Requirements in the Lifeline and Disabled Programs.

(A) A carrier must be designated as an ETC by the commission in order to participate in the Lifeline or Disabled programs and receive FUSF and/or MoUSF support.

(B) An ETC shall demonstrate compliance with all of the following requirements:

1. All ETC substantive and filing requirements identified in 4 CSR 240-31.130;

2. Remittance payments to the FUSF and MoUSF, as applicable;

3. Reporting requirements to FUSFA and the MoUSFA; 4. All requirements associated with the Lifeline program identified in 47 CFR Part 54 Subpart E and this chapter;

4. All requirements associated with the Disabled program identified in this chapter; and

5. Any ETC must be current in all filing requirements and other MoPSC required assessments prior to receipt of support payments from the MoUSF.

(C) An ETC shall annually recertify a subscriber's continued eligibility for participation in the Lifeline program. A subscriber shall submit proof of eligibility at least once every two years unless an ETC has an automated means of verifying subscriber eligibility or alternatively a carrier's annual recertification process is administered by the FUSFA.

(D) An ETC shall annually recertify a subscriber's participation in the Disabled program using either of the following procedures:

A. Apply the same procedure as identified in Subsection (C) to all Disabled program participants; or

B. Limit annual recertification efforts to any household participating in the disabled program whereby the qualifying disabled customer is not listed as the voice telephony subscriber. In such situations the ETC may limit its inquiry to the voice telephony subscriber as to whether the qualifying disabled customer remains within the household.

(E) An ETC shall comply with all audit requests by the FCC, the FUSFA, MoUSFA and the commission staff, concerning compliance with any and all requirements of the Lifeline and Disabled programs.

(F) If an ETC provides wholesale service to a company without ETC designation whereby the reseller offers Lifeline service or Disabled service to qualifying consumers, such wholesale arrangements are subject to the ETC receiving support directly from the FUSF and/or MoUSF for qualifying low-income or disabled consumers served by the reseller. The reseller shall not directly receive USF support.

(3) Consumer Eligibility for the Lifeline and Disabled programs.

(A) All consumers shall complete the application form approved by the board and submit adequate proof of eligibility. A board-approved application shall be required even if a carrier only seeks federal Lifeline support.

(B) Lifeline or Disabled service shall be limited to one kind of support per household. A Lifeline subscriber may receive both state and federal Lifeline support, but a household shall not receive both Lifeline and Disabled support, nor shall it receive Lifeline or Disabled support from multiple providers.

(C) A subscriber's participation in the Lifeline or Disabled programs shall be denied or discontinued if it is discovered the subscriber has submitted incorrect, false or fraudulent information to the carrier.

(4) De-enrollment Procedures

(A) De-enrollment generally. If an ETC has a reasonable basis to believe a household no longer meets the eligibility criteria for participation in the Lifeline or Disabled program then the ETC shall provide written notification to the subscriber of impending termination. Notification shall be sent in writing separate from the subscriber's monthly bill, if one is provided, and shall be written in clear, easily understood language. A subscriber shall be allowed 30-days following the date of the impending termination notification to submit acceptable proof of continued eligibility consistent with applicable annual re-certification requirements. If a subscriber fails to demonstrate continued eligibility, the ETC shall de-enroll that subscriber within 5 business days of the expiration of the 30-day response period..

(B) De-enrollment for duplicative support. If an ETC is notified by the FUSFA that a subscriber is receiving Lifeline service from another ETC or that more than one member of the subscriber's household is receiving Lifeline service then the ETC shall de-enroll the subscriber from participation in the company's Lifeline program within five business days.

(C) De-enrollment for non-usage. If an ETC does not assess or collect a monthly fee and the Lifeline subscriber has failed to comply for 60 consecutive days with usage requirements as defined in 47 CFR 54.407(c)(2) then the ETC shall provide written notice of impending de-enrollment to the subscriber. The notice shall inform the subscriber in clear, easily understood language that if the subscriber fails to use the Lifeline service within the next 30 days then the subscriber will be de-enrolled from the Lifeline program. If the subscriber uses the Lifeline service within 30 days of providing such notice then the company shall not terminate the subscriber's Lifeline service.

(D) De-enrollment for failure to re-certify. If a Lifeline or Disabled subscriber fails to respond to the ETC's attempts to obtain applicable re-certification, or fails to provide the annual one-per-household re-certification as required by 47, CFR 54.410(f), then the ETC shall de-enroll the subscriber within five business days after the expiration of the 30-day response period. This requirement shall also apply to a subscriber who relies on a temporary address and fails to respond to the ETC's address re-certification attempts pursuant to 47 CFR 54.410(g), if implemented.

(E) An ETC shall not be eligible for Lifeline or Disabled reimbursement for any de-enrolled subscriber following the date of that subscriber's de-enrollment.

(5) Requirements for a Company offering Lifeline or Disabled Service on a resale basis without ETC status.

(A) Any company offering Lifeline and/or Disabled service solely on a resale basis and without ETC status shall comply with all requirements identified in this chapter and 47 CFR Part 54 Subpart E.

(B) The company shall provide the following information to the manager of the commission's Telecommunications Unit:

A. Certifies via affidavit by an officer of the company that the company will comply with all requirements associated with the Lifeline or Disabled programs within 4 CSR 240-31 and 47 CFR Part 54 Subpart E as if the company has ETC designation.

B. Contact information including address, email and direct phone number for the primary individual employed by the company for ensuring compliance with 4 CSR 240-31 and 47 CFR Part 54 Subpart E.

C. A copy of the consumer application enrollment form the company intends to use to sign-up customers to the Lifeline and/or Disabled programs.

D. Full and complete responses to information identified in 4 CSR 240-31.130(1)(B)1, 2, 4, 7, 8, 11 and 12; (C) and (D).

(C) Companies intending to offer Lifeline and/or Disabled service solely on a resale basis and without ETC status shall provide the information in subsection (B) at least thirty (30) in advance of offering such services. Any company already offering such services on the effective date of this rule must provide such information within thirty (30) days of the effective date of this rule.

(D) The company shall annually submit, no later than **July 1** of each year, all information required in 4 CSR 240-31.130(3)(A) in the commission's Electronic Filing and Information System.

AUTHORITY: sections 392.200.2 and 392.248, RSMo Supp. 1997 and 392.470.1, RSMo 1994. Original rule filed _____*Original authority: 392.200, RSMo 1939, amended 1987, 1988, 1996; 392.248, RSMo 1996; and 392.470.1, 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 not 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-2012-0 _____. 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.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 31—Universal Service

Comments for 4 CSR 240-31.130

Paragraph (1)(C)3:

T-Mobile: Overly broad & burdensome rule especially as the industry experiences consolidation whereby due diligence may not reveal issues up to ten years old. Audits of revenue reporting have no bearing on whether an applicant is worthy of ETC status. Disclosing relevant problems is reasonable but this proposed rule is too broad that compliance may be impossible.

Virgin Mobile: Too broad. Sets up potential compliance issues for ETCs affiliated with large corporations. Should limit these disclosures to only matters involving state or federal universal service funds.

MoPSC Staff response: *Language requested by Commissioners.*

Subsection (2)(A); Subsection (3)(A); Subsection (3)(B); and Subsection (4):

MTIA: Deadline should be changed from April 1 to July 15 in order to be more consistent with the revised federal filing dates. FCC has changed filing deadlines for many new requirements to July.

MoPSC Staff response: *Revised deadline to July 1 which corresponds to the FCC's revised filing deadline as reflected in the FCC's Third Order on Reconsideration for WC Docket No. 10-90 (FCC 12-52) released May 14, 2012; paragraph 9.*

Subsection (2)(B):

Virgin Mobile: The reference to the commission's jurisdiction should be narrower to avoid conflicts with state statute exempting wireless service from MoPSC jurisdiction. Suggests replacing highlighted text with "...contained in the commission rules pertaining to universal service in Chapter 31."

MoPSC Staff response: *At this time the MoPSC Staff is unwilling to revise the rule based on Virgin Mobile's wording. Concern that Virgin Mobile's proposed wording may compromise the MoPSC's ability to address ETC and/or universal service concerns if not specifically identified in Chapter 31.*

Subsection (2)(I):

Virgin Mobile: Too broad. Sets up potential compliance issues for ETCs affiliated with large corporations. Should limit these disclosures to only matters involving state or federal universal service funds.

MoPSC Staff response: *Language as requested by Commissioners.*

Subparagraph (3)(A)1C:

See prior comments of MTIA, Cricket, T-Mobile, Virgin Mobile, and TracFone expressing concerns with the requirement for all companies to use the board's generic form.

MoPSC Staff response: *Language based on Board direction.*

Paragraph (3)(A)4:

MTIA : Should delete because burdensome and unnecessary. MTIA's recent comments indicate that reporting de-enrollment quantities by specific reason is burdensome.

Cricket: Not easily obtainable on a monthly basis. Company timing differences. Should allow flexibility for waivers. Providing annual quantities for these categories is more reasonable. Offers suggested language on p.9. Cricket's recent comments indicate that de-enrollment quantities due to non-usage of the service only apply to companies offering a free service. Cricket goes on to express concerns about the annual filing requirement and questions if such information will actually be reviewed by the Commission Staff.

Cricket projects **increase cost of \$1,800** per year to provide annual filings. Cricket objects to Staff's assumption of only \$600 per year for all wireless Lifeline-only ETCs. Cricket believes the total annual amount per company should be \$1,800 in order to reflect the costs associated with legal and outside consulting services.

Virgin Mobile: All of the requested quantity information should be kept confidential. Rule should recognize the ability to file information confidentially.

MoPSC Staff response: *Revised to accommodate Cricket's comment that providing annual quantities is more reasonable as well as address Virgin Mobile's interest in confidential handling of this information. Contrary to MTIA's comments, Staff finds subscriber quantities to be helpful. In particular the desired subscriber quantity information will help ensure companies are de-enrolling subscribers as appropriate. Nevertheless the requirement to report de-enrollment quantities has been further modified to try and resolve the concerns of MTIA and Cricket.*

In response to Cricket's projected fiscal impact Staff continues to assume \$600 per year for all wireless Lifeline-only ETCs for a total projected fiscal note of \$21,600. Staff does not believe the proposal for ETCs to make an annual filing with the Missouri Commission will require an ETC to incur outside consulting and legal costs. Nevertheless if the Commission agrees with Cricket then the total projected fiscal note should be further revised whereby total cost will increase from \$21,600 to \$64,800.

Paragraph (3)(B)3:

MTIA: Should be deleted because vague and undefined. Goes beyond FCC requirements. Missouri law waives quality of service metrics. Follow-up verbal discussion with MTIA about this issue suggests the latest draft of the rule is unclear on what might be expected from companies to "demonstrate" the company is providing acceptable service.

MoPSC Staff response: *The rule has been further revised to try and address concerns about being vague. In contrast to MTIA's position, state commissions have a responsibility to monitor high-cost recipients. More specifically, the FCC specifically encourages states to bring to the FCC's attention any issues and concerns as part of the annual high-cost recertification process. In Staff's opinion, it is reasonable to require a company to explain how the company monitors its quality of service, if at all, and to provide any results of the company's monitoring efforts. Absent such a requirement it is very difficult, if not impossible, to have any definitive information about a company's quality of service or whether the company is even monitoring its quality of service. Staff recommends the Commission not delete this requirement or attempt to water it down by simply requiring a company official to attest the company is providing acceptable service.*

Subsection (5)(A):

MTIA: Should delete because does not apply to most ETCs. Goes beyond MoPSC's jurisdiction. The term "good compliance" is vague.

MoPSC Staff response: *Revised based on workshop feedback; however, unwilling to delete since the Commissioners requested this type of language in rule.*

PROPOSED RULE

4 CSR 240-31.130 Eligible Telecommunications Carrier Requirements

PURPOSE: This proposed rule establishes application requirements for any carrier seeking ETC designation and on-going requirements for any carrier designated as an eligible telecommunications carrier.

(1) Application requirements for ETC designation.

(A) All ETC applications shall comply with the application requirements identified in 4 CSR 240-2.060. All applications shall be verified by oath as to the truthfulness therein by an officer or director of the applicant;

(B) All ETC applications shall contain the following information regarding the company's proposed provisioning of voice telephony service:

1. A description of the service the applicant will offer;
2. An identification of the applicant's proposed service area;
3. An explanation of how the applicant will offer services using its own facilities or a combination of its own facilities and resale of another carrier's services. Include in this explanation a description of the applicant's own facilities as that term is defined in 47 CFR 54.201. If an applicant is seeking ETC designation solely for Lifeline purposes and does not comply with the own-facilities requirement, the applicant shall provide:

A. A statement confirming that subscribers will have 911 and E911 access; and

B. A copy of the applicant's FCC-approved compliance plan. Unless otherwise specified by the FCC, an applicant's compliance plan shall adequately address the information specified in the FCC's Public Notice DA 12-314 released February 29, 2012 for WC Docket Nos. 09-197, 11-42;

4. A statement certifying the applicant will advertise the availability of its supported service and its price, using media of general distribution. The applicant shall also provide an explanation of how the applicant will advertise. If an applicant intends to advertise its service by direct mail then the company shall explain how it will target those mailings to consumers reasonably likely to qualify for the service. An applicant shall provide examples of advertising, when available;

5. A certification that the applicant will comply with the applicable service requirements in 47 CFR 54.201(d)(2);

6. A demonstration of the applicant's ability to remain functional in emergency situations, including a description of available back-up power, and a description of how the applicant will reroute traffic around damaged facilities and how it will managing traffic spikes resulting from emergency situations;

7. A statement the applicant will satisfy applicable consumer protection, consumer privacy and service quality standards. This statement shall include a list of those specific standards the applicant deems applicable. A wireless applicant shall include a statement that it will comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service;

8. A description of all rates, terms, conditions and provisions applicable to the proposed voice telephony service to be supported, in whole or part, as Lifeline or Disabled service, including any overage or additional minute charges. The applicant shall provide a statement whether this information will be maintained in a tariff or wireless informational filing with the commission or on a publically available website;

9. An explanation of how the applicant intends to provide service throughout the proposed service area, including areas whereby the applicant lacks facilities or network coverage;

10. A description of how the applicant will ensure service will be provided in a timely manner to requesting customers;

11. A commitment to maintain a record of customer complaints, including an agreement to make such records available upon request to the commission staff;

12. A commitment to remit required, collected 911 revenues to local authorities; and

13. A demonstration the applicant is financially viable and technically capable of providing voice telephony service.

14. A description of how, if at all, the applicant will provide access to directory assistance services, operator services, and interexchange services.

(C) All ETC applications shall contain the following information regarding disciplinary history of the applicant and the individuals associated with the ETC applicant:

1. Identify any individual or entity having a 10% or more ownership interest in the applicant, and all managers, officers and directors, or any person exerting managerial control over the applicant's day-to-day operations, policies, service offerings and rates;

2. Identify any companies sharing common ownership or management with the applicant. For any identified company indicate whether the company has or is currently offering telecommunications, IVoIP and/or wireless services, or has ever received funds from the FUSF or any state universal service fund; and

3. Provide the details of any matter brought in the last ten years by any state or federal regulatory or law enforcement agency against the applicant, any person or entity that holds more than a 10% ownership interest in the applicant, any affiliated company (any company under common management ownership or control or that, by contract or

other agreement performs any of the functions necessary to the applicant's Lifeline Service) that involves any aspect of state or federal Universal Service funds and programs or any matter involving fraud, deceit, perjury, stealing or the omission or misstatement of material fact in connection with a commercial transaction. Such matters include, but are not limited to, formal or informal notices of investigation, indictment, the filing of a complaint, a civil lawsuit, revocation or suspension proceeding, action for penalties or damages, or criminal charges. Such details include, but are not limited to, copies of complaints or other such pleadings and the filed responses thereto, as well as any orders, decisions or other determinations of culpability, including those that exonerate the subject of any wrongdoing.

(D) All ETC applications shall contain the following information and commitments regarding the applicant's proposed participation in the Lifeline or Disabled program:

1. Certifies all funding will flow through to the subscriber of the applicable program;
2. A commitment that the applicant will solely conduct business using the name or "DBA" under which the commission granted ETC designation. This commitment shall also include a statement the applicant will not use additional service or brand names;
3. A commitment that the applicant will comply with all requirements associated with the Lifeline program contained in 47 CFR Part 54 Subpart E;
4. A commitment that the applicant will comply with all requirements contained in this chapter, whether funded solely through the FUSF or through the FUSF and the MoUSF;
5. A statement indicating whether the applicant intends to seek support from the MoUSF. If so, the applicant shall state whether it intends to participate in the Disabled program;
6. A demonstration of how the applicant will ensure that the full amount of Lifeline or Disabled support will be passed through to the qualifying low-income consumer;
7. A commitment that the applicant will only use a Lifeline or Disabled Application form approved by the board, that any supplemental form will be submitted to the commission staff at least one business day prior to use of the form in Missouri as will any changes to the supplemental form;
8. An explanation of how the applicant will initiate Lifeline or Disabled service to a subscriber, including:
 - A. How it will ensure a subscriber meets eligibility requirements;
 - B. How it will determine if a subscriber's identity and primary address are correct; and
 - C. How it will ensure that only one Lifeline or Disabled discount is received per household;
9. If the applicant does not assess or collect a monthly fee for Lifeline service, it shall explain how it will to comply with the following requirements:
 - A. The applicant will not receive universal service support until the subscriber activates the service; and

B. The applicant will only receive support for a subscriber using the service within the last 60 days, including a description of its process to monitor and de-enroll a subscriber that fails to use the service for 60 consecutive days;

10. An explanation of how the applicant intends to annually verify a customer's continued eligibility for the Lifeline or Disabled program, including what action will be taken if a subscriber fails to adequately respond or is no longer eligible for support; and

11. A statement indicating whether the applicant intends to use agents or independent contractors who are not employees of the applicant to sign-up subscribers to the Lifeline or Disabled program. If non-employees are going to be used then the applicant shall supplement this statement by committing to take responsibility for them and their activities as if they were legally employees of the applicant. In addition, the applicant shall explain how it will monitor such personnel to ensure compliance with all applicable laws and rules concerning the Lifeline or Disabled programs.

(E) All ETC applications shall contain the following regulatory information:

1. A commitment to notify the commission of any changes to company contact information;

2. If the applicant is certificated or registered by the commission, a statement that the company is compliant with all reporting and assessment obligations;

3. A statement that the applicant is compliant with contribution obligations to the FUSF; and

4. If an applicant has sought and obtained a waiver of any ETC requirement from the FCC, it shall provide a copy of the FCC's decision.

(F) Any application seeking ETC designation for the intended purpose of receiving federal high-cost support shall provide the following additional information:

1. A statement the applicant will comply with all requirements of 47 CFR Part 54 Subpart C;

2. An explanation of how granting ETC status is in the public interest;

3. A five-year plan describing specific proposed improvements or upgrades to the applicant's network throughout its proposed service area. This plan shall include 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 wireless cell towers, and estimated budget amounts. The plan shall demonstrate that universal service support shall be used to improve coverage, service quality or capacity 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 wireless providers, a map identifying existing cell tower site locations;

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 or census block 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;

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

5. A statement the applicant will use the support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended; and

6. A description of how the applicant intends to monitor the company's quality of service. This description shall include, but not be limited to monitoring:

A. The timeliness of providing service.

B. The timeliness of restoring out-of-service conditions.

C. The amount of trouble experienced with the applicant's service.

D. The amount of outages experienced with the applicant's service.

(2) ETC Requirements:

(A) An ETC shall not self-certify to the FUSFA for receipt of FUSF. Any ETC seeking annual certification to receive support pursuant to the high-cost, Lifeline or Disabled program shall seek certification through the commission by July 1 of each year;

(B) An application for ETC designation shall be deemed to be acceptance of commission jurisdiction over any issues related to ETC status and USF funding and acceptance of all commission rules pertaining to universal service. The commission shall not certify an ETC that fails to comply with state and federal rules applicable to that ETC;

(C) An ETC shall make available voice telephony service to all subscribers in the ETC's service area upon reasonable request;

(D) An ETC shall only offer Lifeline or Disabled service within its designated service area as provided in the Missouri Commission's ETC designation.

(E) Any ETC participating in the federal high-cost support program shall comply with all requirements identified in 47 CFR Part 54 Subpart D and these rules;

(F) Any ETC participating in the Lifeline program shall comply with all requirements identified in 47 CFR Part 54 Subpart E and this chapter. Any ETC participating in the Disabled program shall comply with this chapter. ETCs solely funded through the FUSF shall comply with this chapter;

(G) An ETC shall solely conduct business using the name or "DBA" under which the commission granted ETC designation and no additional service or brand names, unless the ETC properly files for a name or "DBA" change pursuant to 4 CSR 240-31.130(2)(M). Use of other or additional names such as brand or service names shall be prohibited;

(H) An ETC shall maintain an intrastate tariff, wireless informational filing or a publically available website to display all rates, terms, conditions or other provisions concerning the company's voice telephony services;

(I) An ETC shall maintain a current list of company-designated contacts within the commission's Electronic Filing and Information System;

(J) An ETC shall notify the manager of the commission's Telecommunications Unit of any proceeding initiated by a state or federal regulatory authority alleging the ETC or any person or entity identified in section (1)(C) above is violating any state or federal universal service program requirements. Such notice shall also be required if any allegations of fraud, tax evasion or the commitment of a felony by the ETC or such person or entity are made. Notice shall be within 30 days of the initiation of the proceeding and shall be in written format either via letter or electronic means. This notice shall explain the allegations, cite the proceeding and provide contact information for subsequent questions about the proceeding. If possible, the notice shall also provide an electronic link or electronic access to any public documents associated with the proceeding. The ETC shall subsequently forward any final decisions regarding the proceeding made by any state or federal agency or court within 30 days of releasing the decision;

(K) An ETC shall forward to the manager of the commission's Telecommunications Unit the audit results concerning the company's compliance with universal service program requirements as conducted by FUSFA or by an independent auditor as contemplated by 47 CFR 54.420. Finalized audit reports shall be provided within 30 days of the issuance of the final audit report. The ETC shall accompany a finalized audit report with a response as to how the company will address and resolve noncompliance issues, if any;

(L) An ETC shall comply with record keeping requirements as identified in 47 CFR 54.320 for the high-cost program and 47 CFR 54.417 for the Lifeline program. ETCs shall keep all books and records associated with 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 available to the commission or its staff consistent with 4 CSR 240-10.010 of the Commission's rules;

(M) An ETC shall cooperate and comply with periodic audits and/or requests for information by the commission staff to monitor compliance with this chapter;

(N) Any ETC that changes its name shall file a written notice in the commission's Electronic Filing and Information System at least ten days prior to the use of the new name. This notice shall include:

1. A statement clearly setting out both the old name and the new name;
2. Evidence of registration of the new name with the Missouri Secretary of State;
3. A statement that the company will continue to comply with all applicable laws and rules relating to ETC designation;
4. A statement that the company's contacts in EFIS have been reviewed and are correct; and
5. A copy of the notice informing customers of the name change; and

(O) Any ETC shall not willfully make any false entry or record or willfully neglect to make full, true and correct entries in such records of all facts and transactions appertaining to its business, nor shall an ETC make any false statement to the commission, FUSFA, or the FCC.

(3) Annual Filing Requirements for ETCs.

(A) All ETCs, including an ETC solely receiving Lifeline support, shall annually submit, no later than July 1 of each year in order for an ETC to continue to receive Lifeline support for the following calendar year, the following information to the Missouri Commission's Electronic Filing and Information System:

1. An officer of the company shall certify under penalty of perjury:

A. The company complies with each of the annual certification requirements identified in 47 CFR 54.416(a);

B. The company complies with all Missouri Lifeline and Disabled program procedures as identified in 4 CSR 240-31.120;

C. The company is using a Lifeline and/or Disabled application form approved by the Missouri USF board;

D. The company complies with all requirements associated with the National Lifeline Accountability Database as identified in 47 CFR 54.404 when implemented;

E. The company's Lifeline service continues to meet the criteria set forth in 47 CFR 54.401;

F. For any company not assessing or collecting a monthly fee from its Lifeline subscribers the company shall certify compliance with the service activation and service de-enrollment requirements identified in 47 CFR 54.407(c) and 47 CFR 54.05(e)(3), respectively; and

G. The company's Missouri operations solely use the name of the company as recognized by the commission for ETC designation in all marketing and other USF-related materials including filings with the FUSFA and the FCC;

H. A statement indicating whether the company offers access to interexchange services, directory assistance services and operator services.

2. A copy of the annual report required by 47 CFR 54.422;

3. The results of the company's most recent annual re-certification efforts of existing Lifeline subscribers as required by 47 CFR 54.416(b);

4. Subscriber quantities as described below for the most recent twelve month time period:

A. Number of Lifeline subscribers at the beginning of the twelve month time period;

B. Total number of new Lifeline subscribers activated during the twelve month time period;

C. Total number of Lifeline subscribers de-enrolled during the twelve month time period.

I. ETCs offering a free Lifeline service whereby no monthly bill is sent to the Lifeline subscriber shall provide the following de-enrollment quantities for the twelve month time period:

(a) Total number of Lifeline subscribers de-enrolled due to non-usage of the Lifeline service.

(b) Total number of Lifeline subscribers de-enrolled for all other reasons than reflected in subpart (a).

(c) Total number of Lifeline subscribers de-enrolled (i.e., (c) = (a) + (b)).

D. Number of Lifeline subscribers at the end of the twelve month time period.

E. Identify the twelve month time period.

F. If company participates in Disabled program then provide respective subscriber quantity information for Disabled subscribers as described in A, B, C and D above.

Any subscriber quantities may be filed on a confidential basis using procedures in 4 CSR 240-2.135.

5. A summary of any USF- or ETC-related audits conducted within the past year. Such audits include the independent audits as contemplated by 47 CFR 54.420 and audits conducted by the FUSFA. If an audit identifies any non-compliance issue then the company shall provide the status of resolving the issue. The full and finalized audit report shall have already been previously submitted to the Manager of the commission's Telecommunications Unit as described in 4 CSR 240-3.570(3)(H) so the company shall provide the date the audit report was provided to the commission;

6. A list of any proceedings alleging the company is violating universal service fund requirements. This list shall consist of any formal proceeding in any jurisdiction that has either been initiated or completed within the past year. For each proceeding the company shall provide an accurate citation of the proceeding, the jurisdiction, and a brief description of the allegations along with the status of any finalized decisions regarding the proceeding by a regulatory agency or court;

7. If an ETC provides Lifeline discounted wholesale services to a reseller then the ETC shall identify the reseller.

(B) All ETCs receiving high-cost support shall submit, no later than July 1 of each year in order for an ETC to continue to receive high-cost support for the following calendar year, the following additional information with the company's annual filing to the commission's Electronic Filing and Information System:

1. An officer of the company shall certify under penalty of perjury:

A. All federal high-cost support provided to the company within Missouri was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended;

B. The company complies with applicable service quality standards and consumer protection rules. Wireless ETCs should also certify continued compliance with the latest edition of the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service; and

C. The company is able to function in emergency situations as contemplated by 47 CFR 54.202(a)(2).

2. A copy of the company's annual reporting information as required by 47 CFR 54.313.

3. A company shall explain how it monitors, if at all, the quality of service provided by the company for voice telephony service. This explanation shall include whether the company monitors the timeliness of providing service and remedying out-of-service conditions. The company shall provide results of its most recent consecutive three months of quality of service measurements, if available.

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

(C) An ETC may ensure confidentiality by classifying the filing as confidential

(4) ETC Compliance.

(A) ETCs shall maintain full compliance with all ETC requirements identified in this chapter and in 47 CFR 54. ETCs shall also comply with the laws, rules and procedures for other

states in which they are an ETC, the state administrators in states in which they are an ETC, FUSFA and the FCC.

(B) Formal action to address ETC compliance issues may be initiated by a motion, complaint or by the commission. The commission will issue an order directing an ETC to show cause why corrective action should not be taken against it. During the course of the investigation, the commission may provisionally suspend state funding and/or may recommend provisional suspension of federal funding to the carrier. If the carrier is ultimately cleared of all compliance issues the commission may restore state funding and/or recommend restoring federal funding to which the ETC was entitled.

(C) Formal action to address ETC compliance issues may result in any or all of the following actions against the carrier at the discretion of the commission:

1. Penalty assessment;
2. Rescind ETC designation;
3. Suspend future state funding and/or recommend suspension of future federal funding for the Lifeline and/or Disabled programs; and
4. Application of special conditions or requirements for continued participation in the Lifeline and/or Disabled programs.

(D) The commission may grant a waiver of or variance from any provision of 4 CSR 240-31.010 through 4 CSR 240-31.130 for good cause, upon request or upon its own motion. A party wishing to obtain a waiver or variance shall file an application with the commission setting out the reason for its request.

AUTHORITY: sections 392.200.2 and 392.248, RSMo Supp. 1997 and 392.470.1, RSMo 1994. Original rule filed _____*Original authority: 392.200, RSMo 1939, amended 1987, 1988, 1996; 392.248, RSMo 1996; and 392.470.1, 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 twenty-one thousand, six hundred dollars (\$21,600) 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-2012-0 _____. 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.

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

PROPOSED AMENDMENT

4 CSR 240-3.570 Requirements for Carrier Designation as Eligible Telecommunications Carriers. This rule set out the application requirements for designation as an Eligible Telecommunications Carrier to receive reimbursements from the state or federal Universal Service Fund.

PURPOSE: This rule is rescinded because all of the rules pertaining to the Universal Service Funds are consolidated in Chapter 31.

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.

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. Rescinded_____.*

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-2_____. 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.