

**FILED****JUL 22 2008****Missouri Public
Service Commission****Robin Carnahan
Secretary of State****Administrative Rules Division
Rulemaking Transmittal Receipt**

Rule ID: 9047
Date Printed: 7/22/2008
Rule Number: 4 CSR 240-31.010
Rulemaking Type: Proposed Amendment
Date Submitted to Administrative Rules Division: 7/22/2008
Date Submitted to Joint Committee on Administrative Rules: 7/22/2008

Name of Person to Contact with questions concerning this rule:

Content: Cully Dale

Phone: 1-4255

Email: cully.dale@psc.mo.gov

Fax:

RuleDataEntry:

Phone:

Email:

Fax:

Included with Rulemaking:

Cover Letter

7/22/2008

Affidavit for public cost

7/22/2008

Print Close

Robin Carnahan

Secretary of State
Administrative Rules Division

RULE TRANSMITTAL

Administrative Rules Stamp

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SECRETARY OF STATE
ADMINISTRATIVE RULES

Rule Number 4 CSR 240-31.010

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

Name of person to call with questions about this rule:

Content Cully Dale Phone 573-751-4255 FAX

Email address cully.dale@psc.mo.gov

Data Entry same Phone FAX

Email address

Interagency mailing address Public Service Comm'n, 9th Fl, Governor Ofc Bldg, JC, MO

TYPE OF RULEMAKING ACTION TO BE TAKEN

☐ Emergency rulemaking, include effective date

☒ Proposed Rulemaking

☐ Withdrawal ☐ Rule Action Notice ☐ In Addition ☐ Rule Under Consideration

☐ Order of Rulemaking

Effective Date for the Order

☐ Statutory 30 days OR Specific date

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

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

Small Business Regulatory
Fairness Board (DED) Stamp

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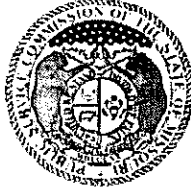
REGULATORY FAIRNESS
BOARD

JCAR Stamp

JOINT COMMITTEE ON

JUL 22 2008

ADMINISTRATIVE RULES



Commissioners

JEFF DAVIS
Chairman

CONNIE MURRAY

ROBERT M. CLAYTON III

TERRY JARRETT

KEVIN D. GUNN

Missouri Public Service Commission

POST OFFICE BOX 360
JEFFERSON CITY MISSOURI 65102
573-751-3234
573-751-1847 (Fax Number)
<http://www.psc.mo.gov>

WESS A. HENDERSON
Executive Director

DANA K. JOYCE
Director, Administration

ROBERT SCHALLENBERG
Director, Utility Services

NATELLE DIETRICH
Director, Utility Operations

COLLEEN M. DALE
Secretary/Chief Regulatory Law Judge

KEVIN A. THOMPSON
General Counsel

July 22, 2008

Honorable Robin Carnahan
Secretary of State
Administrative Rules Division
600 West Main Street
Jefferson City, Missouri 65101

Dear Secretary Carnahan:

Re: Proposed Amendment to 4 CSR 240-31.010

CERTIFICATION OF ADMINISTRATIVE RULE

I do hereby certify that the attached is an accurate and complete copy of the proposed amendment lawfully submitted by the Missouri Public Service Commission for filing on this 22nd day of July, 2008.

Statutory Authority: Sections 386.250, 392.248 and 392.470.1 RSMo 2000 and 392.200.2, RSMo Supp. 2007.

Executive Order 93-13 requires state agencies to undertake a "takings analysis" of each proposed rulemaking in light of the United States Supreme court decision in *Lucas v. South Carolina Coastal Council*, 112 S. Ct. 2886 (1992). Pursuant to that order, I have undertaken a "takings analysis" of the above-referenced proposed rulemaking. In *Lucas*, the Court held that state regulation depriving an owner of real property of all economically beneficial use of that property constitutes a "taking" under the Fifth and Fourteenth Amendments of the U.S. Constitution, for which the property owner must be compensated. Adopting the proposed rulemaking does not implicate the takings clause of the U.S. Constitution, because the proposed rulemaking does not involve the taking of real property.

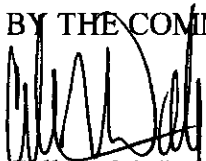
Section 536.300, RSMo Supp. 2007, requires state agencies to "determine whether the proposed rule amendments affect small businesses and, if so, the availability and practicability of less-restrictive alternatives that could be implemented to achieve the same results of the proposed rulemaking." Executive Order 03-15, which similarly addresses the impacts of rulemakings on small businesses, defines a small business to be "a for-profit

enterprise consisting of fewer than one hundred full- or part-time employees” and elaborates that a proposed rule “affects” a small business if it “impose[s] any potential or actual requirement” that “will cause direct and significant economic burden upon a small business, or that is directly related to the formation, operation, or expansion of a small business.” Section 536.300.3, RSMo Supp. 2007, in part, provides: “If the state agency determines that its proposed rule does not affect small business, the state agency shall so certify this finding in the transmittal letter to the secretary of state, stating that it has determined that such proposed rule will not have an economic impact on small business . . .”

Proposed amendment 4 CSR 240-31.010 does not impose requirements that have an economic impact on small businesses, that “will cause direct and significant economic burden upon a small business, or that is directly related to the formation, operation, or expansion of a small business.” The Commission certifies that it has determined that the proposed rule will not have an economic impact on small businesses.

If there are any questions, please contact: Colleen M. Dale, Secretary
Missouri Public Service Commission
200 Madison Street
P.O. Box 360
Jefferson City, MO 65102
(573) 751-4255
cully.dale@psc.mo.gov

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', is written over the printed name.

Colleen M. Dale
Secretary

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Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT JUL 22 2008

Division 240—Public Service Commission
Chapter 31—Missouri Universal Service Fund

SECRETARY OF STATE
ADMINISTRATIVE RULES

PROPOSED AMENDMENT

4 CSR 240-31.010 Definitions. The commission is amending section (9).

PURPOSE: This rule defines terms used in the rules comprising Chapter 31. This amendment changes "Medicaid" to "a program pursuant to 42 U.S.C. §§1396-1396v" to clarify that Universal Service Fund low-income assistance is available to customers who qualify for federal program benefits under that law, irrespective of the programs' names, which may change over time.

(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 [~~Medicaid~~] a program pursuant to 42 U.S.C. §§1396-1396v, food stamps, Supplementary Security Income (SSI), federal public housing assistance or Section 8, National School Lunch Program's free lunch program, Temporary Assistance for Needy Families or Low Income Home Energy Assistance Program (LIHEAP).

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 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. Emergency amendment filed July 22, 2008, effective August 1, 2008, and expires January 27, 2009. Amendment filed July 22, 2008, effective January 28, 2009.*

**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 rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five thousand five hundred dollars (\$5,500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Colleen M. Dale, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register and should include a reference to commission Case No. TX-2009-0030. Comments may also be submitted via a filing using the commission's electronic filing and information system and <http://www.psc.mo.gov/efis.asp>. A public hearing regarding this proposed rule is

JOINT COMMITTEE ON

JUL 22 2008

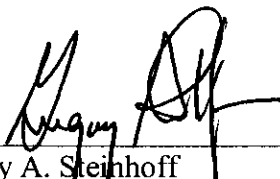
ADMINISTRATIVE RULES

scheduled for October 2, 2008 at 1:30 pm in Room 305 of the Governor Office Building, 200 Madison Street, 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 or TDD Hotline 1-800-829-7541.

**AFFIDAVIT
PUBLIC COST**

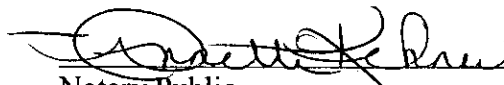
STATE OF MISSOURI)
)
COUNTY OF COLE)

I, Gregory A. Steinhoff, Director of the Department of Economic Development, first being duly sworn, on my oath, state that it is my opinion that the cost of proposed amendment, 4 CSR 240-31.010, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.



Gregory A. Steinhoff
Director
Department of Economic Development

Subscribed and sworn to before me this 21st day of July, 2008, I am commissioned as a notary public within the County of COLE, State of Missouri, and my commission expires on 17 JULY 2011



Notary Public

