

Robin Carnahan

Secretary of State
Administrative Rules Division

RULE TRANSMITTAL

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

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

Email address christine.koenigsfeld@psc.mo.gov

Interagency mailing address Public Service Commission, 9th Fl. Gov. 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:

Amending sections (6), (9), (13), and (14); adding sections (8), (9), and (17); renumbering sections (8), (10), (11), and (12)

Small Business Regulatory
Fairness Board (DED) Stamp

SMALL BUSINESS
REGULATORY FAIRNESS BOARD

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JOINT COMMITTEE ON

MAY 30 2012

ADMINISTRATIVE RULES



Commissioners

KEVIN GUNN
Chairman

TERRY M. JARRETT

ROBERT S. KENNEY

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
Director of Administration
and Regulatory Policy

STEVEN C. REED
Secretary/General Counsel

CHERLYN D. VOSS
Director of Regulatory Review

May 30, 2012

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

Re: 4 CSR 240-31.010 Definitions

Dear Secretary Carnahan,

CERTIFICATION OF ADMINISTRATIVE RULE

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

The Public Service Commission has determined and hereby certifies that this proposed rulemaking will not have an economic impact on small businesses. The Public Service Commission further certifies that it has conducted an analysis of whether there has been a taking of real property pursuant to section 536.017, RSMo 2000, that the proposed rulemaking does not constitute a taking of real property under relevant state and federal law, and that the proposed rulemaking conforms to the requirements of 1.310, RSMo Supp. 2010, regarding user fees.


The Public Service Commission has determined and hereby also certifies that this proposed rulemaking complies with the small business requirements of 1.310, RSMo Supp. 2010, in that it does not have an adverse impact on small businesses consisting of fewer than twenty-five full or part-time employees or it is necessary to protect the life, health, or safety of the public, or that this rulemaking complies with 1.310, RSMo Supp. 2010, by exempting any small business consisting of fewer than twenty-five full or part-time employees from its coverage, by implementing a federal mandate, or by implementing a federal program administered by the state or an act of the general assembly.

Statutory 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.

Woodruff
May 30, 2012
Certification of Administrative Rule

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

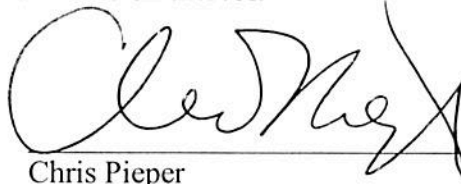
Morris L. Woodruff, Chief Regulatory Law Judge
Missouri Public Service Commission
200 Madison Street
P.O. Box 360
Jefferson City, MO 65102
(573) 751-2849
morris.woodruff@psc.mo.gov


Morris L. Woodruff
Chief Regulatory Law Judge

**AFFIDAVIT
PUBLIC COST**

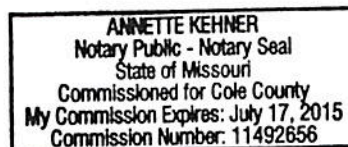
STATE OF MISSOURI)
)
COUNTY OF COLE)

I, Chris Pieper, Acting 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 rule, 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.



Chris Pieper
Acting Director
Department of Economic Development

Subscribed and sworn to before me this 29th day of May, 2012, I am commissioned as a notary public within the County of Cole, State of Missouri, and my commission expires on 17 July 2015.


Notary Public

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

PROPOSED AMENDMENT

4 CSR 240-31.010 Definitions The Commission is amending sections (6), (9), (13), and (14), adding a new sections (8), (9), and (17), and renumbering sections (8), (10), (11), and (12).

PURPOSE: This rule is amended to conform to new federal guidelines concerning eligibility to receive Lifeline Program support.

(6) Essential local telecommunications services [*— 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]

This is synonymous with “voice telephony services.”

(8) Household – 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.

(9) Income - All income actually received by all members of the 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.

[(8)] (10) Local calling scope—The geographic area determined by a local exchange telecommunications company’s tariffs filed with and approved by the commission, within which

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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)] **(11) Low-income customer**—Any customer who requests or receives residential essential local telecommunications service and **whose income, as defined in (9) above, is at or below 135% of the Federal Poverty Guidelines** or 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)] **(12) 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.

[(11)] **(13) Missouri Universal Service Fund (MoUSF or Fund)**—The universal service fund established by section 392.248, RSMo 2000 to be 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) To assist low-income customers and disabled customers in obtaining affordable essential telecommunications services;

(C) 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.

[(12)] **(14) Net jurisdictional revenue**—Net jurisdictional revenue shall include all revenues received by an applicable carrier from retail customers resulting from the provision of intrastate regulated telecommunications services, but shall not include revenue from payphone operations, taxes and uncollectibles. Revenues received from another provider of 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)] **(15) 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)] **(16) 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.

(17) Voice Telephony Services - Shall provide 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 emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government has implemented them; and toll limitation services to qualifying low-income customers.

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. 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 Aug. 1, 2008, expired Jan. 29, 2009. Amended: Filed July 22, 2008, effective Feb. 28, 2009. Emergency amendment filed May 18, 2012, effective June 1, 2012, expired February 28, 2013. Amended: Filed , 2012, effective , 2012.*

**Original authority: 392.200, RSMo 1939, amended 1987, 1988, 1996, 2003, 2005, 2008; 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 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 August 1, 2012, and should include a reference to Commission Case No. TX-2012-0392. 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 August 2, 2012 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.

Small Business Regulator Fairness Board

Small Business Impact Statement

Date: May 18, 2012

Rule Number: 4 CSR 240-31.010

Name of Agency Preparing Statement: Missouri Public Service Commission

Name of Person Preparing Statement: Natelle Dietrich

Phone Number: 573-751-7427 Email: natelle.dietrich@psc.mo.gov

Name of Person Approving Statement: Morris Woodruff

Please describe the methods your agency considered or used to reduce the impact on small businesses *(examples: consolidation, simplification, differing compliance, differing reporting requirements, less stringent deadlines, performance rather than design standards, exemption, or any other mitigating technique).*

This is a federally mandated amendment designed to expand the eligibility requirements for low income consumers to receive state and federal universal service funds (USF).

Please explain how your agency has involved small businesses in the development of the proposed rule.

The amendment is federally mandated and should have no direct impact on small businesses.

Please list the probable monetary costs and benefits to your agency and any other agencies affected. Please include the estimated total amount your agency expects to collect from additionally imposed fees and how the moneys will be used.

There should be no monetary cost or benefit to the Public Service Commission.

Please describe small businesses that will be required to comply with the proposed rule and how they may be adversely affected.

Small voice telephony providers will be required to comply, but no adversity is expected.

Please list direct and indirect costs (in dollars amounts) associated with compliance.

The amendment establishes additional eligibility requirements for consumers to receive discounted phone service. The businesses affected are phone companies that provide that voice telephony service and are reimbursed from federal USF funds.

Please list types of business that will be directly affected by, bear the cost of, or directly benefit from the proposed rule.

Small voice telephony companies will be directly affected by the proposed rule.

Does the proposed rule include provisions that are more stringent than those mandated by comparable or related federal, state, or county standards?

Yes___ No_X__

If yes, please explain the reason for imposing a more stringent standard.

For further guidance in the completion of this statement, please see §536.300, RSMo.