

## **BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI**

In the Matter of a Proposed Amendment       )  
To 4 CSR 240-31.010 Regarding the       )       **File No. TX-2012-0392**  
Missouri Universal Service Fund       )

### **COMMENTS OF THE STAFF OF THE MISSOURI PUBLIC SERVICE COMMISSION**

These comments attempt to explain the proposed rule. In addition, these comments respond to and support AT&T Missouri's (AT&T) proposed additions to the rule. Therefore, Staff recommends the Commission approve the proposed rule with AT&T's proposed additions.

#### **Main Rationale for the Proposed Rulemaking**

This proposed rulemaking is necessary to comply with a Federal Communications Commission decision requiring all states to use, at a minimum, the income and program criteria currently used by federal default states for the Lifeline program.<sup>1</sup> In order to comply with this FCC decision, Missouri's low-income program needed to add the income-based eligibility of 135% of the federal poverty level.<sup>2</sup> An emergency rulemaking has temporarily implemented the income-based eligibility criterion within Missouri effective June 1, 2012 through February 28, 2013.<sup>3</sup> Therefore this proposed rulemaking is primarily intended to make permanent the income-based eligibility criterion for the Lifeline program.

#### **Comparison of the Pending and Emergency Rulemakings**

The same rule revisions are contained in the pending and emergency rulemakings for defining the terms "income" and "low-income customer." The pending rulemaking differs from the emergency rulemaking by proposing definitions for the terms "household" and "voice telephony services." In addition the pending rulemaking modifies "essential local telecommunications services" by indicating it is synonymous with "voice telephony services". Some minor grammatical changes are also proposed in the pending rulemaking. In general, these proposed revisions are intended to help provide more clarity and consistency with FCC's Lifeline Reform Order. The remainder of these comments will attempt to explain the rationale for each of the proposed revisions of the definitions contained in the pending rulemaking.

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<sup>1</sup> Paragraph No. 65 of the FCC's Report and Order and Further Notice Proposed Rulemaking issued for WC Docket No. 11-42, et al; *In the Matter of Lifeline and Link Up Reform and Modernization*; FCC 12-11; released February 6, 2012 (FCC Lifeline Reform Order).

<sup>2</sup> Missouri is classified as a federal non-default state because it maintains its own low-income program, and, therefore, is allowed to deviate from federal requirements as long as its state rules are not inconsistent with federal rules.

<sup>3</sup> The emergency rulemaking is from Case No. TX-2012-0391.

### **Refer “essential local telecommunications services” to “voice telephony services.”**

The proposal for this term is to indicate the term is synonymous with the term “voice telephony services”. According to Missouri law, a telecommunications company’s eligibility to receive low-income or disabled universal service support is conditioned upon the company providing “essential local telecommunications services”. In contrast, the federal rules indicate “voice telephony services” are supported by the federal universal service support mechanisms. Greater clarity and consistency with federal rules can be achieved if the Missouri Commission incorporates the FCC’s definition for “voice telephony services” into “essential local telecommunications services”.<sup>4</sup>

### **Add and define the term “Household.”**

This proposed definition is reflected in proposed 4 CSR 240-31.080(8) and is the same definition found in FCC rule 54.400(h). This proposed definition is new and was not part of the emergency rulemaking. The term should be included in Missouri rules because “household” income is used in the application of the income-based eligibility criteria.

### **Maintain definition from emergency rulemaking for the term “Income.”**

This proposed definition is reflected in proposed 4 CSR 240-31.080(9) and is the same definition found in FCC rule 54.400(f). This term clarifies issues related to the application of the income-based eligibility criteria. The proposed definition for this pending rulemaking is the same definition found in the emergency rulemaking.

### **Maintain definition from emergency rulemaking for the term “Low-income customer.”**

The revisions proposed for this term in 4 CSR 240-31.080(11) simply attempt to incorporate the income-based eligibility criteria as required by the FCC’s Reform Order. This definition is how Missouri’s existing rules identify eligibility requirements for the low-income or Lifeline program.<sup>5</sup> Consequently the definition of this term is the crux of achieving compliance with the FCC’s Lifeline Reform decision regarding eligibility criteria for the Lifeline program. The proposed revisions for this definition are the same revisions as reflected in the emergency rulemaking.

AT&T recommends the word “household” be inserted into this definition as follows:  
[(9)](11) Low-income customer—Any customer who requests or receives residential essential local telecommunications service and **whose household income, as defined in section (9)**

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<sup>4</sup> Section 392.248.6(1) RSMo describes the requirement for the Missouri Commission to define essential local telecommunications service.

<sup>5</sup> Missouri’s program has generally been labeled as a low-income program rather than the Lifeline program; however, both labels for the program are synonymous.

**above, is at or below one hundred thirty-five percent (135%) of the Federal Poverty Guidelines or who participates...”**

Staff supports AT&T’s proposed revision because it more directly and clearly indicates income should be *household* income.

**Add and define the term “Voice telephony services.”**

This proposed definition is reflected in proposed 4 CSR 240-31.010(17) and is essentially the same definition found in FCC rule 54.101(a). This proposed definition is new and was not part of the emergency rulemaking. The term has significance in that it is used by the FCC in identifying the service eligibility for universal service funding. As previously stated, Missouri law requires a company to provide “essential local telecommunications services” to receive universal service funding. In regard to the administration of the Lifeline program it will provide greater clarity and consistency if Missouri rules incorporate the term “voice telephony services” into the definition of “essential local telecommunications services”.

AT&T recommends the following sentence be added at the end of this definition:

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.

Staff supports this proposed addition to the proposed rule. AT&T is correct in pointing out the relevant citations in the FCC’s Lifeline Reform decision and FCC rules. AT&T’s proposed sentence adds appropriate clarity to defining this term.

With this change, the definition will read:

**(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. 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.**

Respectfully submitted,



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