

MEMORANDUM

Dale Hardy Roberts, Secretary

DATE: April 15, 2003

Authorization to File the Final Orders of Rulemaking with the Office of Secretary of State

CASE NO: TX-2002-1026

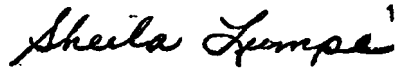
The undersigned Commissioners hereby authorize the Secretary of the Missouri Public Service Commission to file the following Final Orders of Rulemakings with the Office of Secretary of State, to wit:

4 CSR 240-31.065 Collection of MoUSF Surcharge from End-User Subscribers

4 CSR 240-33.070 Discontinuance of Service to Residential Customers

 (NO)

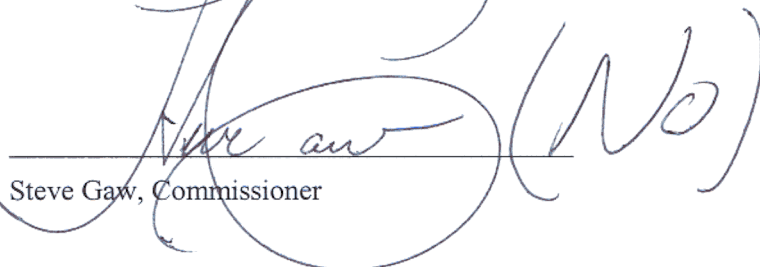
Keilyn L. Simmons, Chair



Sheila Lumpe, Commissioner



Connie Murray, Commissioner

 (NO)

Steve Gaw, Commissioner



Bryan Forbis, Commissioner

**Title 4—Rules of Department of Economic Development
Division 240—Public Service Commission
Chapter 31—Missouri Universal Service Fund**

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APR 16 2003

ORDER OF RULEMAKING

**SECRETARY OF STATE
ADMINISTRATIVE RULES**

By the authority vested in the Missouri Public Service Commission under sections 392.200.2, 392.248, and 392.470 RSMo 2000, the Commission adopts a rule as follows:

4 CSR 240-31.065 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on December 2, 2002 (27 MoReg 2166). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A hearing was held on January 22, 2003, at 10:00 a.m., in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Oral testimony and written comments were received during the comment period regarding proposed rule 4 CSR 240-31.065.

COMMENTS: A telephone company recommended restructuring and modifying the proposed rule to clarify that all applicable carriers shall include a percentage surcharge on each retail end-user customer's bill. The commenter also recommended a clarification stating that the surcharge percentage should apply to all revenues resulting from regulated intrastate telecommunications services provided to end-user retail customers.

RESPONSE AND EXPLANATION OF CHANGE: Proposed rule 31.065 is restructured by creating five sections, (1), (2), (3), (4) and (5), instead of a single Section (1) with four subsections, (A), (B), (C), and (D). New Sections (1) and (3) are changed to reflect that the surcharge is a percentage. New Section (3) is also changed to state that the surcharge is to be applied to net jurisdictional revenues.

COMMENTS: A telephone company recommended adding language to the rule clarifying that carriers are required to remit to the fund administrator all funds received from their end user customers as a result of the application of the surcharge. The commenter also recommended that the rule clearly state that the remittance of all funds received as a result of the surcharge will equal a carrier's annual assessment.

RESPONSE AND EXPLANATION OF CHANGE: New Section (4) is added to clarify that the funds collected from the surcharge shall be remitted to the fund administrator, and that the remittance of all collected surcharge funds shall constitute full satisfaction of a carrier's annual assessment.

COMMENTS: The Office of the Public Counsel commented that limiting the requirement to remit funds to only those collected does not encourage carriers to collect uncollectibles and does not account for uncollectibles that are later collected.

RESPONSE AND EXPLANATION OF CHANGE: The Commission does not believe that a carrier's uncollectibles will have a significant impact on the fund since a carrier has incentive to pursue its uncollectibles, and the percentage surcharge would apply to uncollectibles that are later collected. The words "from end user customers" were removed to indicate that all funds received as a result of the application of the MoUSF surcharge shall be remitted.

COMMENTS: The Office of the Public Counsel commented that a surcharge is not the appropriate manner for collecting carrier assessments for the Missouri Universal Service Fund.

RESPONSE: If the Commission did not allow a surcharge, market distortions would result and implicit subsidies would be created. Three different types of companies (rate-of-return, price-cap, and competitive) would all be treated differently. Because of these differences, any funding mechanism that is not based on a surcharge will necessarily create competitive advantages and disadvantages for different companies.

4 CSR 240-31.065 Collection of MoUSF Surcharge from End-User Subscribers

- (1) All applicable carriers shall place on each retail end-user customer's bill, a surcharge equal to the percentage assessment ordered by the commission.
- (2) The surcharge shall appear as a separate line item detailed as "Missouri Universal Service Fund."
- (3) The surcharge percentage shall be applied to each customer's total charges equating to the applicable carrier's net jurisdictional revenues.
- (4) All applicable carriers shall remit to the fund administrator the funds received as a result of the application of the MoUSF surcharge. The remittance of all funds received as a result of the application of the MoUSF surcharge shall constitute full satisfaction of a carrier's annual percentage assessment.
- (5) No carrier may recover its Universal Service Fund (USF) assessment in any way other than through this surcharge.

**Title 4—Rules of Department of Economic Development
Division 240—Public Service Commission
Chapter 33—Service and Billing Practices for Telecommunications Companies**

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**SECRETARY OF STATE
ADMINISTRATIVE RULES**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 392.200.2, 392.248, and 392.470 RSMo 2000, the Commission amends a rule as follows:

4 CSR 240-33.070 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 2, 2002 (27 MoReg 2169). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.