

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

In the Matter of Staff's Investigation into the)	
Practices and Procedures of Companies Offering)	<u>File No. TO-2012-0364</u>
Low Income (Lifeline) or Disabled Universal)	
Service Fund Discounts in the State of Missouri)	

DRAFT RULE PROPOSAL

COMES NOW the Staff of the Missouri Public Service Commission ("Staff") and places in this repository docket its proposed revisions to Chapter 31 of 4 CSR 240, concerning the federal and Missouri Universal Service Funds, and states as follows:

1. On May 7, 2012, the Staff requested that this repository docket be opened. In Paragraph 7 of its Motion, the Staff stated:

The Staff also intends to use the information that it has gathered in its investigation to propose updates to the Commission's rules about ETC designation and the USF (including the Missouri USF) designed to combat potential fraudulent activity and to comply with the changes brought about by the FCC's USF reform Order.

2. The Staff has essentially re-written Chapter 31 in the following ways:

- a. The activities and authority of the Missouri Universal Service Board are clarified in the Staff's proposal;
- b. The Staff's proposal attempts to make Missouri's rules consistent with recent changes to the federal Universal Service Fund rules;
- c. The Staff's proposal removes references to a Missouri High-Cost Fund. At the present time, the Staff does not anticipate the creation of such a fund in the near future. If such a fund is created, it is likely that the rules will be significantly different from the rules that were drafted prior to the operation of the Missouri Universal Service Fund; and
- d. The Staff's proposal establishes a higher level of scrutiny of the activities of Eligible Telecommunications Carriers, especially those ETCs that provide Lifeline service to low-income and disabled customers.

3. The Staff has sent a copy of its proposed revisions to all the Eligible Telecommunications Carriers (“ETC”) in the state, but wishes to elicit as much feedback as possible, so placing the proposed rules in this docket will allow entities other than ETCs the opportunity to provide comments about the proposal.

4. The Staff has scheduled a meeting for August 29, 2012 in the Ballroom of the Governor Office Building where stakeholders in this process and the Staff may freely exchange ideas about the proposal. Exact times and the Agenda for that meeting are not yet available; notice of those details will be disseminated to the ETCs and will also be placed in this repository docket.

5. The Staff’s proposed re-write of Chapter 31 of 4 CSR 240 is Attachment A to this pleading.

WHEREFORE, the Staff respectfully submits its proposed revision and invites interested persons to file comments about it in this docket.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', with a stylized, cursive script.

Colleen M. Dale
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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 13th day of August, 2012.

A handwritten signature in black ink, appearing to be "All Day".

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

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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

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.

~~[(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.”** ~~[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" consist 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 MoUSF was** established by section 392.248, RSMo 2000 **and is** 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~~ **to** assist low-income customers and disabled customers in obtaining affordable essential telecommunications services[;

~~(C) To~~ **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) 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 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 240-31.020 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 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 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 submit a copy of such additional sheet(s) to the board staff. If the additional sheet(s) is changed, the ETC shall 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 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 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 240-31.040 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.

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.

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:*

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 240-31.070, 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.

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.

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:*

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 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 registered IVoIP providers and certificated telecommunications carriers. The MoUSFA shall also 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 remittance procedure information on the MoUSF web site. Such information shall include deadlines for remitting payments to the MoUSF.

(C) Failure to submit payments in a timely manner shall result in late payment penalties as determined by the board. Waiver of such penalties 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 penalty. 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 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.

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.

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:*

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.

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.

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:

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.

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.

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:*

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 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 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.

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.

*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:*

**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 MoUSF Fund Administrator Activities

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

(1) Any action taken or decision issued by the MoUSF 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 MoUSF 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 MoUSF 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 MoUSF Fund Administrator. If the board does not issue its decision within sixty (60) days, then the action taken or decision issued by the MoUSF 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 MoUSF 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) 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.*

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

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.

(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 \$9.25 per month or as otherwise 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; however, MoUSF support is limited to certificated telecommunications companies and registered IVoIP providers. MoUSF support is not available to wireless carriers.

(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;
- 5. All requirements associated with the Disabled program identified in this chapter; and
- 6. Any certificated or registered 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 continuing eligibility for participation in the Disabled program if the qualifying disabled customer resides in the household but is not listed as the voice telephony subscriber. Disabled subscribers listed as the voice telephony subscriber do not need to be annually recertified.

(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) An ETC may provide wholesale service to a reseller whereby the reseller offers Lifeline service or Disabled service to qualifying consumers. Such wholesale arrangements are subject to the following conditions:

- 1. The ETC may receive 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.

2. The ETC shall ensure the reseller complies with all requirements associated with the Lifeline or Disabled programs as if the reseller has ETC designation. This requirement includes the obligation for an ETC to submit additional annual report information as described in 4 CSR 240-31.130(3)7.

(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 the subscriber submits incorrect, false or fraudulent information to the carrier.

(D) An ETC shall provide written notice of de-enrollment to existing Lifeline or Disabled program subscribers under the following conditions:

1. The subscriber fails to respond to the ETC's attempts to obtain annual re-certification of the subscriber's continued eligibility;
2. The ETC has reasonable basis to believe a Lifeline or Disabled subscriber no longer meets qualifying criteria;
3. An existing subscriber residing at a temporary address fails to verify his or her temporary address every 90 days; or
4. An ETC has a reasonable basis to believe a subscriber has moved without notifying the ETC.

The ETC shall allow the subscriber 30 days following the date of the notice to resolve the issue prompting de-enrollment. If written notice is returned without reaching the subscriber then the ETC shall make one attempt to contact the subscriber either by phone or text message. If the subscriber fails to resolve the issue then the ETC shall promptly de-enroll the subscriber after expiration of the 30-day time period. Written notice shall be in clear and easily understood language, separate from a monthly bill, if a bill is provided to the subscriber.

(E) An ETC shall de-enroll a Lifeline subscriber within five business days if the FUSFA notifies the ETC that the subscriber also receives Lifeline service from another ETC or another member of the household receives Lifeline service. An ETC shall de-enroll a Disabled subscriber within five business days if the ETC has evidence the subscriber receives more than one Lifeline or Disabled service.

(F) An ETC that does not assess and collect a monthly fee shall immediately de-enroll a subscriber failing to use the service for the last 60 days as described in 47 CFR 54.407(c). In such situations the carrier shall be required to transmit any 911 calls made by the subscriber for a minimum of 30 days after notifying the subscriber of de-enrollment.

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 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

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, including an explanation of how the applicant will so advertise, providing examples of proposed advertisements, if available. If an applicant intends to advertise its service by direct mail, it shall explain how it will target those mailings to consumers reasonably likely to qualify for the service;

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, with a list of those 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. Provide a statement whether the applicant will maintain this information 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.

(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. A description or copy of the safeguards the applicant has in place to ensure that no USF funds are diverted to use for attorneys fees, back taxes, rescissions, penalties, judgments or settlements;

2. A commitment that the applicant will solely conduct business using the name or "DBA" under which the commission granted ETC designation and no 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 description of the applicant's relationship with those who sign-up subscribers to the Lifeline or Disabled program. If an applicant intends to use agents or independent contractors that are not employees of the applicant, the applicant shall commit to take responsibility for them and their activities as if they were legally employees of the applicant. In addition, the applicant shall demonstrate how it will adequately monitor to ensure that its employees, agents and contractors comply 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 Missouri Commission of any changes to company contact information;

2. If the applicant is certificated or registered by the Missouri 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.

(3) 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 April 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;

(D) 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;

(E) 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;

(F) 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. Use of other or additional names such as brand or service names shall be prohibited;

(G) 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;

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

(I) 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;

(J) 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;

(K) 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 at reasonable times for examination and inspection at a location designated by the commission;

(L) An ETC providing Lifeline discounted wholesale service to a non-eligible telecommunications carrier shall ensure the non-eligible telecommunications carrier complies with all Lifeline program requirements, including recordkeeping requirements of 47 CFR 54.417;

(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 within the case file originally granting ETC status to the company 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.

(4) Annual Filing Requirements for ETCs.

(A) All ETCs, including an ETC solely receiving Lifeline support, shall annually submit, no later than April 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 240-31.070;
 - 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;
 - 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 Missouri Commission for ETC designation in all marketing and other USF-related materials including filings with the FUSFA and the FCC;
2. A copy of the annual report required by 47 CFR 54.422;
3. The results of the company's re-certification efforts of existing Lifeline subscribers as required by 47 CFR 54.416(b);
4. For each month within the last twelve months the company's Missouri Lifeline and Disabled subscribership quantities:
 - A. Total Lifeline and Disabled subscribers;
 - B. New Lifeline and Disabled subscribers activated during the month;and
 - C. Existing Lifeline and Disabled subscribers de-enrolled during the month from the Lifeline or Disabled program based on the following criteria:
 - i. De-enrolled for non-usage of the Lifeline service;
 - ii. De-enrolled for failing to re-certify; and
 - iii. De-enrolled for other reasons;
5. A summary of any audits conducted within the past year. Such audits include the independent audits as contemplated by 47 CFR 54.420 and audits conducted by the administrator of the federal USF. 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 Missouri 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 Missouri 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. The ETC shall submit the following additional information on behalf of the reseller:

A. Certification under penalty of perjury from an officer of the reseller that the reseller is complying with each of the requirements identified in subsection (4)(A)(1) of this section;

B. All annual reporting information required by 47 CFR 54.422. In response to 47 CFR 54.422(b)(5) regarding information describing the terms and conditions of any voice telephony service plans offered to Lifeline subscribers a company may simply cite the relevant portion of a company's intrastate tariff, informational wireless filing or provide a link to a public web site containing such information;

C. The results of the reseller's re-certification efforts of existing Lifeline subscribers; and

D. The reseller's Lifeline subscribership quantities as identified in subsection (4)(A)(4) of this section;

(B) All ETCs receiving high-cost support shall submit, no later than April 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 Missouri 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 demonstration the company is providing acceptable voice telephony service including the timeliness of providing service and remedying out-of-service conditions.

4. Number of unfilled service requests during the past twelve months.

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

(5) ETC Compliance.

(A) ETCs shall maintain full compliance with all ETC requirements identified in this chapter and in 47 CFR 54. ETCs shall also maintain good compliance with other state commissions, the state administrators, FUSFA and the FCC. If an ETC's ownership or management is convicted of a felony, tax evasion or fraud, it shall forfeit its ETC designation.

(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 Missouri Commission:

1. Penalty assessment;
2. Rescind ETC designation;
3. Suspend future state funding and/or recommend suspension of future federal 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.

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 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.