

Vaught, Dianna

Subject: FW: Chapter 31 Revisions post workshop.doc
Attachments: Chapter 31 Revisions post workshop.doc

From: Van Eschen, John
Sent: Tuesday, September 06, 2016 10:47 AM
To: Dale, Cully
Cc: Dietrich, Natelle; Salsman, Kari
Subject: FW: Chapter 31 Revisions post workshop.doc

From: PRITCHARD, MATT [<mailto:cp8129@att.com>]
Sent: Tuesday, August 30, 2016 3:02 PM
To: Van Eschen, John
Subject: Chapter 31 Revisions post workshop.doc

John here are the changes from AT&T.

Matt Pritchard
Regional Director-External Affairs
State Legislative & Reg Affairs

AT&T
101 West High Street
Jefferson City, MO 65101
573-469-8057 | cp8129@att.com

MOBILIZING YOUR WORLD

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

Formatted: Font: Times New Roman, 12 pt

Formatted: Font: 12 pt

4 CSR 240-31.010 Definitions

PURPOSE: This rule defines terms used in the rules comprising Chapter 31.

- (1) Assessable carrier—All registered Interconnected Voice over Internet Protocol (IVoIP) providers and certificated telecommunications companies 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 Missouri Universal Service 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) Commission—The Missouri Public Service Commission.
- (4) Disabled Program—The program that offers discounted voice telephony service to Missourians with certain disabilities as defined by 4 CSR 240-31.120(1)(C).
- (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 Missouri-approved telecommunications carriers to receive MoUSF support from the high-cost, Lifeline, or Disabled programs.
- (6) Essential local telecommunications services—This phrase is synonymous with “voice telephony service” as defined by 4 CSR 240-31.010(~~4821~~).
- (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 fund that provides funding to companies for the high-cost program and the Lifeline program.
- (9) Federal Universal Service Fund Administrator (FUSFA)—An independent, not-for-profit corporation created to administer the federal universal service programs under the oversight of the FCC.

(10) Household—Defined by 47 CFR Part 54.400(h) as any individual or group of individuals who are living together at the same address as one (1) economic unit. A household may include related and unrelated persons. An “economic unit” consists of all adult individuals contributing to and sharing in the income and expenses of a household. An adult is any person eighteen (18) 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 (18) living with their parents or guardians are considered to be part of the same household as their parents or guardians.

(11) Income—Defined by 47 CFR Part 54.400(f) as gross income as defined under section 61 of the Internal Revenue Code, 26 U.S.C. 61 for all income actually received by all members of a household. This ~~includes—“means”~~ all income actually received by all members of the household from whatever sourced derived, unless specifically excluded by the Internal Revenue Code, Part III of Title 26, 26 U.S.C. 101 et seq. 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.

Comment [PM1]: Add the word “means” to follow the federal FCC rule.

(12) Interconnected Voice over Internet Protocol (IVoIP)—Is a service that enables real-time, two-(2-) 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—Means a non-transferable retail service offering for which qualifying low-income consumers pay reduced charges as a result of application of the Lifeline support amount described in 47 CFR 54.403; and that provides qualifying low-income consumers with voice telephony service as specified in 47 CFR 54.101(a)(1). Toll limitation service does not distinguish between toll and non-toll calls in the pricing of the service. If an eligible telecommunications carrier charges Lifeline subscribers a fee for toll calls that is in addition to the per month or per billing cycle price of the subscribers’ Lifeline service, the carrier must offer toll limitation service at no charge to its subscribers as part of its Lifeline service offering.

Comment [UCA2]: 54.101(a)(1) is the section dealing with voice lifeline

(14) MoUSF—Refers to the Missouri Universal Service Fund, which was established by section 392.248, RSMo 2000 to be used for the following purposes:

- (A) To ensure the provision of reasonably comparable essential local telecommunications service, as defined in this rule, throughout the state, including high cost areas, at just, reasonable, and affordable rates;
- (B) To assist low-income customers and disabled customers in obtaining affordable essential telecommunications services; and
- (C) To pay the reasonable, audited costs of administering the MoUSF.

(15) Missouri Universal Service Fund Administrator (MoUSFA)—The agency, individual, firm, partnership, or corporation selected by the board to act as the independent neutral administrator of the MoUSF.

(16) MoUSF website—The MoUSF website is www.missouriusf.com or www.mousf.com. The website contains various forms and information as directed by the board regarding the administration of the MoUSF.

(17) Net jurisdictional revenue—Net jurisdictional revenue means all retail revenues received from end-user customers resulting from the provision of intrastate regulated [telecommunications](#) and IVoIP services, but shall not include revenue from payphone [and shared tenant service](#) operations, taxes, and uncollectibles.

(18) 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.

(19) 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.

(20) Toll limitation—“Toll limitation service” denotes either toll blocking service or toll control service for eligible telecommunications carriers that are incapable of providing both services. For eligible telecommunications carriers that are capable of providing both services, “toll limitation” service denotes both toll blocking service and toll control service.

(21) 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.

(22) Wireless service—refers to commercial mobile radio service as identified in 47 CFR Parts 20 and 24.

AUTHORITY: section 392.200.2, RSMo Supp. 2013, and sections 392.248 and 392.470.1, RSMo 2000. Original rule filed Aug. 15, 1997, effective April 30, 1998. Amended: Filed Oct. 30, 2002, effective July 30, 2003. Emergency amendment filed May 31, 2005, effective June 10, 2005, expired Feb. 15, 2006. Amended: Filed June 30, 2005, effective Feb. 28, 2006. Emergency amendment filed July 22, 2008, effective Aug. 1, 2008, expired Jan. 29, 2009. Amended: Filed July 22, 2008, effective Feb. 28, 2009. Emergency amendment filed May 18, 2012, effective June 1, 2012, expired Feb. 28, 2013. Amended: Filed May 30, 2012, effective Dec. 30, 2012. Amended: Filed Aug. 7, 2013, effective April 30, 2014.*

**Original authority: 392.200, RSMo 1939, amended 1987, 1988, 1996, 2003, 2005, 2008; 392.248, RSMo 1996; and 392.470.1, RSMo 1987.*

4 CSR 240-31.020 Organization, Powers, and Meetings of the Board

PURPOSE: This rule establishes the organization and meetings of the board and other related responsibilities.

(1) Each year during the months of January or February, the board shall convene 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 2000.

(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 or public counsel 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 Missouri Universal Service Fund (MoUSF) website.

(E) The board shall designate a member of the staff of the commission or public counsel 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 (1) 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 Missouri Universal Service Fund Administrator (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 commission in Jefferson City, Missouri.

(3) Any meetings of the board may be held in 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 2000. The meeting agenda, consisting of the time of each meeting and the matters to be discussed, will be posted at the commission offices and on the MoUSF website at least twenty-four (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) The board shall adopt procedures, including a competitive bid process, to retain an independent neutral MoUSFA, who shall be responsible for the day-to-day operations of the MoUSF. Rather than adopt its own procedures, the board may follow the procedures established by the Office of Administration in completing a competitive bid process. The board shall also adopt procedures to provide, among other things, for the periodic review of the MoUSFA and the opportunity to rebid the contract for the MoUSFA ~~no less frequently than every five (5) years~~. The board may establish other procedures as needed to facilitate the orderly administration of the MoUSF.

(6) The board may establish procedures, or may follow the procedures established by the Office of 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 to perform other accounting duties it may require. The board may choose more than one (1) 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 rebid the contract(s) ~~no less frequently than every five (5) years.~~

(7) The board shall have the power to propose to the commission new or amended rules 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 Eligible Telecommunications Carriers (ETCs) to use to enroll end-users in the Lifeline or Disabled programs and shall post a generic acceptable form on its website. All ETCs shall use the form established by the board or a form that complies with 47 CFR 54.410(d), and commission requirements as described in 4 CSR 240-31.120(5).

(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 voice telephony service.

AUTHORITY: section 392.200.2, RSMo Supp. 2013, and sections 392.248 and 392.470.1, RSMo 2000. Original rule filed Aug. 15, 1997, effective April 30, 1998. Amended: Filed Aug. 7, 2013, effective April 30, 2014.*

**Original authority: 392.200, RSMo 1939, amended 1987, 1988, 1996; 392.248, RSMo 1996; and 392.470.1, RSMo 1987.*

4 CSR 240-31.030 The MoUSFA

PURPOSE: This rule establishes the qualifications for and the responsibilities of the Fund Administrator.

(1) The Missouri Universal Service 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 Interconnected Voice over Internet Protocol (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. The Administrator shall not provide consulting services to any such provider and it may not use any proprietary information it obtains from any provider in its capacity as the Administrator for any purpose other than to administer the MoUSF.

Formatted: Font: Times New Roman, 12 pt

(2) The 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 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 MoUSFA is authorized to establish accounts with a bank of this state for the deposit of moneys into the MoUSF. The 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 months' funding is contained in that balance. Additional requirements may be included in the MoUSFA contract.

*AUTHORITY: section 392.200.2, RSMo Supp. 2013, and sections 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. Amended: Filed Aug. 7, 2013, effective April 30, 2014.*

**Original authority: 392.200, RSMo 1939, amended 1987, 1988, 1996, 2003; 392.248, RSMo 1996; and 392.470.1, RSMo 1987.*

4 CSR 240-31.040 Eligibility for Funding--High Cost Areas

PURPOSE: This rule provides requirements for determining the eligibility of telecommunications companies for universal service funds for high cost areas.

(1) In order for a telecommunications company to be eligible to receive high cost support from the Missouri Universal Service Fund (MoUSF) it must meet the following requirements:

(A) It must charge a rate for essential local telecommunications services no greater than the rate set by the commission as the just, reasonable and affordable rate for that geographic area;

(B) It must offer all essential local telecommunications services throughout the entire high cost area and have carrier of last resort obligations in that high cost area; and

(C) It must be a telecommunications company providing telecommunications service as defined in section 386.020(53), RSMo Supp. 1997 using its own facilities, in whole or in part, throughout the service area. "Own facilities" for purposes of this section includes facilities obtained as unbundled network elements. A telecommunications company providing service to end-user customers exclusively through the resale of another carrier's retail services will not be deemed to be providing essential local telecommunications service using its own facilities, in whole or in part, to those customers.

(2) Designation of Carriers of Last Resort.

(A) Incumbent local exchange telecommunications companies, at the effective date of this rule, are designated as carriers of last resort, until such time as the designation is changed.

(B) Local exchange telecommunications companies other than the incumbent local exchange telecommunications companies may apply to the commission for carrier of last resort status. An applicant for such status shall--

1. Identify the high cost areas for which it seeks such designation;
2. Provide evidence that it can offer essential local telecommunications service to all customers who request service in that geographic area, using its own facilities in whole or in part;
3. Certify to the commission that it will not abandon the obligation to serve that area without approval from the commission;
4. Provide evidence that a grant of the application for certification is in the public interest; and
5. Provide other evidence relevant to such a determination as the applicant deems appropriate or as may be requested by the commission.

(C) Upon receipt of an application for carrier of last resort status the commission shall provide notice and convene hearings, if necessary, to determine whether the applicant qualifies for such status and whether a grant of such application is in the public interest.

(3) Determination of Just, Reasonable, and Affordable Rates for Essential Local Telecommunications Service.

(A) The commission shall, upon proper notice and hearings, determine the just, reasonable, and affordable rates for essential local telecommunications service for each local calling scope in the state;

(B) If circumstances change sufficiently to warrant a review of the determination of just, reasonable, and affordable rates for a local calling scope, a local exchange telecommunications company or the Office of the Public Counsel may petition for, or the commission on its own motion may institute, a proceeding to review the appropriateness of the rates.

(C) No later than four and one-half (4 1/2) years after establishing just, reasonable, and affordable rates for a local calling scope, the commission will institute a proceeding to review the appropriateness of such rates, and will issue an order within five (5) years of establishing such rates to reestablish just, reasonable, and affordable rates for the future period.

(4) Identifying Costs of Essential Local Telecommunications Service.

(A) Upon adoption of methods and procedures by the commission, local exchange telecommunications companies may request identification of high cost areas by submitting an application to the Fund Administrator, along with the studies required to comply with the adopted methods and procedures, to the commission. The Fund Administrator shall review such application and make a recommendation to the commission. The commission will review this recommendation and the studies required to comply with the adopted methods and procedures, and will initiate appropriate action necessary to make a determination of the cost of providing essential local telecommunications service in the requested high cost areas.

(B) In determining the cost of providing essential local telecommunications service a telecommunications company may propose, and the commission may, if appropriate, approve the costs of groups of exchanges or high cost areas with similar cost characteristics, and attribute the costs of providing service to each of the exchanges or high cost areas included in the group.

(5) Identifying High Cost Areas.

(A) A local exchange telecommunications company eligible to receive MoUSF funds for high cost areas shall identify such areas by comparing the cost of serving each local calling scope (determined pursuant to commission rules and procedures to identify such costs) with the just, reasonable, and affordable rate for essential local telecommunications service established by the commission for such calling scope.

(B) Those local calling scopes where the cost of providing essential local telecommunications service exceeds the just, reasonable, and affordable rate for essential local telecommunications service shall be designated as high cost areas and eligible for support from the MoUSF.

(6) Restriction on Disbursements.

(A) The disbursement for any high cost area shall be for an amount no greater than the cost of providing service in that high cost area, adjusted for subsidies and other payments as determined by the commission, less the just, reasonable, and affordable rate.

(B) The effect of disbursements from the MoUSF shall be revenue neutral, with offsetting reductions in rates for other services to be determined by the commission.

(7) The commission may grant a waiver of, or variance from, this provision or from any provision of 4 CSR 240-31.010 through 4 CSR 240-31.110 for good cause, upon request or upon its own motion. A party wishing to obtain a waiver or variance shall file an application with the commission setting out the reason for its request.

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.*

4 CSR 240-31.050 Eligibility for Funding—Low-Income Customers and Disabled Customers
(Rescinded April 30, 2014)

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. Rescinded: Filed Aug. 7, 2013, effective April 30, 2014.*

4 CSR 240-31.060 The MoUSF Assessment

PURPOSE: This rule establishes and determines the methods of assessment for MoUSF funding.

(1) All assessable carriers will be subject to the Missouri Universal Service Fund (MoUSF) assessment.

(2) The MoUSF assessment is based on an assessable carrier's Missouri net jurisdictional revenues.

(3) Assessment Level.

(A) In February each year, the MoUSFA shall issue a form on which each registered IVoIP provider and telecommunications company shall certify the company's Missouri net jurisdictional revenues for the prior calendar year.

(B) Companies shall be given ninety (90) days to complete and return the form.

(C) The MoUSFA shall regularly monitor the MoUSF's balance, disbursements, remittances, and other relevant information to ensure a reasonable MoUSF balance. The MoUSF balance should be within a target range of five (5) to nine (9) 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 assessable carriers of a change in the assessment. Notice should be provided to carriers at least sixty (60) days in advance of any change to the assessment.

(F) The MoUSF website shall readily identify the current assessment level as well as give notice of any pending assessment adjustments.

(4) Collection of MoUSF Assessment from Customers. If an assessable carrier chooses to recover its MoUSF assessment through a line item on a retail end-user customers' bill, then—

(A) The surcharge shall equal the percentage assessment ordered by the commission;

(B) The surcharge shall be 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; and

(D) A company with *de minimis* revenues may begin assessing the surcharge within sixty (60) days of meeting the twenty-four thousand dollar (\$24,000) net jurisdictional revenue threshold.

(5) Remitting MoUSF Assessments.

(A) All assessable carriers shall remit in either of the following methods:

1. A carrier may remit all funds received as a result of the application of the surcharge as provided in section (4) above, in full satisfaction of the carrier's annual percentage assessment; or

2. A 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 on the MoUSF website remittance procedures and deadlines for remitting payments. All assessable carriers shall comply with these remittance procedures and deadlines. ~~Remittances shall generally be made on a monthly basis; however, quarterly payments may be allowed as described on the MoUSF website.~~

(C) Failure to submit payments in a timely manner shall result in late payment fees as determined by the board. Waiver of such late payment fees may be considered if an explanation of why a waiver should be granted is submitted in writing to the MoUSFA within thirty (30) days of being notified of the initial late payment fee. Waivers shall only be granted by the board or as delegated by the board to its staff.

AUTHORITY: section 392.200, RSMo Supp. 2013, and sections 392.248 and 392.470.1, RSMo 2000. Original rule filed Aug. 15, 1997, effective April 30, 1998. Amended: Filed Oct. 30, 2002, effective July 30, 2003. Amended: Filed June 30, 2005, effective Feb. 28, 2006. Amended: Filed Aug. 7, 2013, effective April 30, 2014.*

**Original authority: 392.200, RSMo 1939, amended 1987, 1988, 1996, 2003; 392.248, RSMo 1996; and 392.470.1, RSMo 1987.*

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

(Rescinded April 30, 2014)

AUTHORITY: sections 392.200.2, 392.248, and 392.470, RSMo 2000. Original rule filed Oct. 30, 2002, effective July 30, 2003. Rescinded: Filed Aug. 7, 2013, effective April 30, 2014.

4 CSR 240-31.070 Receipt of MoUSF Funds

(Rescinded April 30, 2014)

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. Rescinded: Filed Aug. 7, 2013, effective April 30, 2014.

4 CSR 240-31.080 Applications for MoUSF Funds

(Rescinded April 30, 2014)

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. Rescinded: Filed Aug. 7, 2013, effective April 30, 2014.

4 CSR 240-31.090 Disbursements of MoUSF Funds

PURPOSE: This rule establishes the procedures for disbursements from the MoUSF to fund recipients and the Fund Administrator.

(1) Only Eligible Telecommunications Carriers (ETCs) certificated as a telecommunications company or registered as an Interconnected Voice over Internet Protocol (IVoIP) provider are eligible to seek disbursements from the Missouri Universal Service Fund (MoUSF) by completing an Application for Support Eligibility form available on the MoUSF website. A completed form must be submitted in a timely manner to the Missouri Universal Service Fund Administrator (MoUSFA). Failure to apply for support within three (3) months of provisioning service to the Lifeline or Disabled customer(s) shall limit support to the amount requested or three hundred fifty dollars (\$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 MoUSFA shall make disbursements from the MoUSF by wire transfer, check, or other appropriate means to fund recipients.

(4) The MoUSFA shall not make any disbursements to itself unless said disbursements have been first approved by the board.

(5) The 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., assistance to provide service to low-income customers and/or disabled customers, costs of administering the fund, etc.)

*AUTHORITY: section 392.200.2, RSMo Supp. 2013, and sections 392.248 and 392.470.1, RSMo 2000. * Original rule filed Aug. 15, 1997, effective April 30, 1998. Amended: Filed Aug. 7, 2013, effective April 30, 2014.*

**Original authority: 392.200, RSMo 1939, amended 1987, 1988, 1996; 392.248, RSMo 1996; and 392.470.1, RSMo 1987.*

4 CSR 240-31.100 Review Procedures for Support Payments

PURPOSE: This rule establishes the procedures for the periodic review of the commission's definition of essential local telecommunications service, the qualification for assistance by a high cost area and the level of support payments to a fund recipient.

(1) No more frequently than once every three (3) years, the commission shall review the definition of essential local telecommunications service with the goal that every citizen of this state shall have access to a wide range of services, that are reasonably comparable between urban and rural areas, at rates that are reasonably comparable between urban and rural areas.

(2) If after such review, the commission adopts a different definition of essential local telecommunications service, then the commission shall also review, and adjust if necessary, the support payments to fund recipients in order to ensure just, reasonable and affordable rates for essential local telecommunications service, as that definition is revised by commission rule.

(3) No less frequently than once every five (5) years, the commission shall review its determination that a high cost area qualifies for assistance from the Missouri Universal Service Fund (MoUSF).

(4) No less frequently than once every five (5) years, the commission shall review the level of support payments to fund recipients. In reviewing such support payments, the commission shall ensure that no fund recipient receives more or less support than necessary to--

- (A) Ensure the provision of reasonably comparable essential local telecommunications service, as that definition may be updated by the commission by rule, throughout the state including high cost areas, at just, reasonable and affordable rates; and

(B) Assist low-income customers and disabled customers in obtaining affordable essential telecommunications 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.*

4 CSR 240-31.110 Review of Board and MoUSFA Activities

PURPOSE: This rule establishes 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 Missouri Universal Service Fund Administrator (MoUSFA) 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 MoUSFA 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 MoUSFA 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 MoUSFA. If the board does not issue its decision within sixty (60) days, then the action taken or decision issued by the MoUSFA 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 MoUSFA. 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) The deadlines established by this section may be waived for good cause.

(5) Review of any commission decision affirming, reversing, or modifying the board's action or decision may be sought pursuant to section 386.500, RSMo 2000, et seq.

AUTHORITY: section 392.200.2, RSMo Supp. 2013, and sections 392.248 and 392.470.1, RSMo 2000. Original rule filed Aug. 15, 1997, effective April 30, 1998. Amended: Filed Aug. 7, 2013, effective April 30, 2014.*

**Original authority: 392.200, RSMo 1939, amended 1987, 1988, 1996; 392.248, RSMo 1996; and 392.470.1, RSMo 1987.*

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 is specified in 47 CFR 54.409, ~~include participation in:~~

- ~~1. MO HealthNet (formerly Medicaid) or any program pursuant to 42 U.S.C. sections 1396~~
~~1396v;~~
- ~~2. Supplemental Nutrition Assistance (Food Stamps) or any program pursuant to 7 U.S.C. section 51;~~
- ~~3. Supplemental Security Income, or any program pursuant to 42 U.S.C. section 7;~~
- ~~4. Low Income Home Energy Assistance (LIHEAP) or any program pursuant to U.S.C. section 94;~~
- ~~54. Federal Public Housing Assistance (section 8) or any program pursuant to 42 U.S.C. section 8;~~
- ~~6. National School Free Lunch Program pursuant to 42 U.S.C. section 13;~~
- ~~7. Temporary Assistance for Needy Families pursuant to 42 U.S.C. section 7(IV)5. Veterans and Survivors Pension Benefit; or~~
- ~~86. A consumer's household income is at or below one hundred thirty five percent (135%) of the federal poverty level; and~~
- ~~97. Any other eligibility criteria as determined by the Federal Communications Commission (FCC) to be applicable in all states or as identified in FCC rule 47 CFR 54.409.~~

(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 specified in 47 CFR 54.403. This funding is available to all designated ETCs.

2. The MoUSF Lifeline funding is determined by the Commission after notice and comment and will be identified on the MoUSF website. Lifeline funding is determined by the MoUSF Board and identified on the MoUSF website for three dollars and fifty cents (\$3.50) per month per Lifeline subscriber for ETCs operating as a telecommunications company or registered as an IVoIP provider.

3. MoUSF Lifeline funding when combined with FUSF Lifeline funding shall not exceed the sum of an ETC's local voice telephony service monthly rate and subscriber line charge.

(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.

2. The MoUSF funding for the Disabled program is determined on a per disabled subscriber basis by the MoUSF Board. This funding amount is identified on the MoUSF website. provides three dollars and fifty cents (\$3.50) per month per disabled subscriber; however, MoUSF support is

Comment [UCA3]: Referencing the FCC eligibility requirements will ensure the state criteria become effective at the same (e.g., in case the state rulemaking becomes effective before the FCC rules become effective) and it will ensure consistency if the FCC changes the criteria in the future.

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Indent: First line: 0.13"

Formatted: Font: 12 pt

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 Program 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 Federal Universal Service Fund Administrator (FUSFA) and the Missouri Universal Service Fund Administrator (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 ETC must be current in all filing requirements and other Missouri Public Service Commission (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 in accordance with 47 CFR 54.410(f), program 12 months after the subscriber's service initiation date and every 12 months thereafter. A subscriber shall submit proof of eligibility at least once every two (2) 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 or the National Verifier.

(D) An ETC shall annually conduct an inquiry for any household participating in the disabled program if the qualifying disabled customer is not listed as the voice telephony subscriber. The inquiry shall be limited to whether the qualifying disabled customer remains within the household.

(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) If an ETC provides wholesale service to a company without ETC designation whereby the reseller offers Lifeline service or Disabled service to qualifying consumers, such wholesale arrangements are subject to the ETC receiving 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.~~

~~(G) An ETC shall comply with de-enrollment requirements identified in 47 CFR Section 54.405 for the Lifeline program and Disabled program.~~

(G) An ETC must use an enrollment form that complies with all federal requirements. The enrollment form for the Disabled program shall be the Lifeline enrollment form with the addition of Disabled program qualifying criteria until such time that a federal form is mandated. At that time, an ETC shall use a separate enrollment form for the Disabled program.

~~(H) An ETC shall comply with Lifeline benefit portability requirements identified in 47 CFR 54.411. Such requirements will apply in a similar manner for the Disabled program.~~

(3) Consumer Eligibility for the Lifeline and Disabled Programs.

(A) All consumers shall complete an application form which complies with 47 CFR 54.410 and with commission requirements as described in 4 CSR 240-31.120(5), ~~and shall submit adequate proof of eligibility.~~ An application shall be required even if a carrier only seeks federal Lifeline support.

Comment [UCA4]: Referencing the FCC rule will ensure the state process is consistent with the FCC process. As drafted, there is an inconsistency with the FCC rule because certain customers (those purchasing service between January and June of next year) will not be recertified within an initial 12 month period.

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Comment [UCA5]: Requiring a lifeline subscriber to submit proof is inconsistent with the FCC's rules.

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Justified, Indent: First line: 0.13"

Comment [UCA6]: FCC rules do not require submission of proof.

Formatted: Font: 9 pt

~~(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.~~

Formatted: Font: 12 pt

(C) A subscriber's participation in the Lifeline or Disabled programs shall be denied or discontinued if it is discovered the subscriber has submitted fraudulent information to the carrier.

~~(4) Requirements for a company offering Lifeline or Disabled Service on a resale basis without ETC status.~~

~~(A) Any company offering Lifeline and/or Disabled service solely on a resale basis and without ETC status shall comply with all requirements identified in this chapter and 47 CFR Part 54 Subpart E.~~

~~(B) The company shall provide the following information to the manager of the commission's Telecommunications Unit:~~

~~1. Certification via affidavit by an officer of the company that the company will comply with all requirements associated with the Lifeline or Disabled programs within 4 CSR 240 31 and 47 CFR Part 54 Subpart E as if the company has ETC designation.~~

~~2. Contact information including address, email, and direct phone number for the primary individual employed by the company for ensuring compliance with 4 CSR 240 31 and 47 CFR Part 54 Subpart E.~~

~~3. A copy of the consumer application enrollment form the company intends to use to sign up customers to the Lifeline and/or Disabled programs.~~

~~4. Full and complete responses to information identified in 4 CSR 240 31.130(1)(B)1., 2., 4., 7., 8., 11., and 12.; (C) and (D).~~

~~(C) Companies intending to offer Lifeline and/or Disabled service solely on a resale basis and without ETC status shall provide the information in subsection (B) at least thirty (30) days in advance of offering such services. Any company already offering such services on the effective date of this rule must provide such information within thirty (30) days of the effective date of this rule.~~

~~(D) The company shall annually submit, no later than July 1 of each year, all information required in 4 CSR 240 31.130(3)(A) in the commission's Electronic Filing and Information System.~~

~~(54) Requirements for Lifeline and Disabled Application Forms if federally mandated forms are not required.~~

(A) The board will provide sample Lifeline and Disabled application forms (sample forms) to be placed on the commission's website and the MoUSFA website.

(B) ETCs may use the sample forms or may use their own company-specific Lifeline and Disabled application form (company-specific form).

(C) If a company uses a company-specific form, the following requirements shall apply:

1. The company-specific form shall comply with all requirements of 47 CFR 54.410(d) and this rule.

2. The company-specific form shall comport with any FCC-approved compliance plan applicable to that company.

3. The company-specific form shall clearly delineate all customer obligations and provisions and all acknowledgements that must be provided subject to penalty of law.

A. Customer obligations, provisions, and acknowledgements shall be in a font that is at least as large as the font used in the majority of the company-specific form.

B. Customer obligations, provisions, and acknowledgements shall receive no less emphasis of importance than is provided for the majority of the language in the company-specific form.

~~4. The ETC shall provide a method, whether on the form or in another format, to allow commission staff, upon request, to easily verify that the customer is providing, and the ETC is reviewing appropriate documentation of customer eligibility.~~

Comment [UCA7]: FCC rules do not require lifeline subscribers to submit proof of eligibility.

5. Neither the commission, nor the board, shall be considered as endorsing or approving the company-specific form.

6. Nothing in this section shall preclude the staff or the Office of the Public Counsel from filing a complaint related to the Lifeline and Disabled application form used by any ETC.

(65) Electronic Lifeline and Disabled Application Forms.

(A) ETCs may use an electronic Lifeline and/or Disabled application form. If a federal Lifeline form is required, then the FCC's application form rules shall be followed for Lifeline subscribers.

(B) If a company uses an electronic form, the following requirements shall apply:

1. The electronic form shall comply with all requirements of 47 CFR 54.410(d) and this rule.

2. The electronic form shall comport with any FCC-approved compliance plan applicable to that company.

3. The electronic form shall clearly delineate all customer obligations and provisions and all acknowledgements that must be provided subject to penalty of law.

A. Customer obligations, provisions, and acknowledgements shall be in a font that is at least as large as the font used in the majority of the form.

B. Customer obligations, provisions, and acknowledgements shall receive no less emphasis of importance than is provided for the majority of the language in the form.

4. An ETC using an electronic form shall, upon request, provide to staff, or the Office of the Public Counsel, a print-out, or a demonstration, of its electronic customer application form.

AUTHORITY: section 392.200.2, RSMo Supp. 2013, and sections 392.248 and 392.470.1, RSMo 2000. Original rule filed Aug. 7, 2013, effective April 30, 2014.*

Formatted: Font: 12 pt

**Original authority: 392.200, RSMo 1939, amended 1987, 1988, 1996; 392.248, RSMo 1996; and 392.470.1, RSMo 1987.*

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 Eligible Telecommunications Carrier (ETC) designation unless designation sought is solely for Lifeline Broadband Service and is being obtained directly from the FCC.

(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, including 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 Federal Communications Commission (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. The applicant shall also provide an explanation of how the applicant will advertise. The availability of Lifeline service shall be publicized in a manner reasonably designed to reach those likely to qualify for the service. If an applicant intends to advertise its service by direct mail then the company shall explain how it will target those mailings to consumers reasonably likely to qualify for the service. An applicant shall provide examples of advertising, including direct mail advertising, when available.

5. A certification that the applicant will comply with the applicable service requirements in 47 CFR 54.201;

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 that the applicant will satisfy applicable consumer protection, consumer privacy, and service quality standards. This statement shall include a list of those specific standards 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. The applicant shall state whether this information will be maintained in a tariff or wireless informational filing with the commission, or on a publicly available website;

9. An explanation of how the applicant intends to provide service throughout the proposed service area, including areas where 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 remit required, collected 911 revenues to local authorities;

12. A demonstration that the applicant is financially viable and technically capable of providing voice telephony service; and

13. A description of how, if at all, the applicant will provide access to directory assistance services, operator services, and interexchange services.

(C) All ETC applications shall contain the following information regarding disciplinary history of the applicant and the individuals associated with the ETC applicant:

Formatted: Font: 12 pt

1. The identity of any individual or entity having a ten percent (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. The identity of any companies sharing common ownership or management with the applicant. For any identified company, indicate whether the company has or is currently offering telecommunications, Interconnected Voice over Internet Protocol (IVoIP), and/or wireless services, or has ever received funds from the Federal Universal Service Fund (FUSF) or any state universal service fund; and
3. The details of any matter brought in the last ten (10) years by any state or federal regulatory or law enforcement agency against the applicant, any person or entity that holds more than a ten percent (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. Certification that all funding will flow through to the subscriber of the applicable program;
2. A commitment that the applicant will solely conduct business using the name or "DBA" under which the commission granted ETC designation. This commitment shall also include a statement the applicant will not use 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 Missouri Universal Service Fund (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 copy of the Lifeline and/or Disabled Application form(s) to be used by the applicant.
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 (1) 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 comply with the following requirements:

A. The applicant will not receive universal service support until the subscriber activates the service; and

B. De-enrollment for non-usage as provided in 47 CFR 54.405(e)(3).

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 statement indicating whether the applicant intends to use agents or independent contractors who are not employees of the applicant to sign-up subscribers to the Lifeline or Disabled program. If non-employees are going to be used then the applicant shall supplement this statement by committing to take responsibility for them and their activities as if they were legally employees of the applicant. In addition, the applicant shall explain how it will monitor such personnel to ensure compliance 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 commission of any changes to company contact information;
2. If the applicant is certificated or registered by the 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, excluding applications for designation solely for the purpose of deploying or operating services pursuant to either the Connect America Fund or the CAF Mobility Fund established by the FCC's *Connect America Fund Order*, 26 FCC Red. 17663 (2011), shall provide the following additional information:

1. A statement that 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- (5-) 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, an explanation of its basis for this determination and a demonstration of how funding will otherwise be used to further the provision of supported services in that area; and

Formatted: Font: 12 pt

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 that 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, if at all, the company’s quality of service. This description includes, but is not 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.

(2) ETC Requirements.

(A) An ETC shall not self-certify to the FUSFA for receipt of FUSF except for the provision of Lifeline Broadband Service. Any ETC seeking annual certification to receive support pursuant to the high-cost, Lifeline, or Disabled program shall seek certification through the commission by July 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) If an ETC, other than a provider of IVoIP service or broadband service under the Connect America Fund programs, offers voice telephony service, then that ETC shall make such service available to all subscribers in the ETC’s service area upon reasonable request.

Comment [UCA8]: The Commission does not have the authority to impose this requirement on broadband service.

Formatted: Font: 12 pt

Formatted: Font: 12 pt

(D) An ETC shall only offer Lifeline or Disabled service within its designated service area as provided in the Missouri Commission’s ETC designation.

(E) Any ETC participating in the federal high-cost support program shall comply with all requirements identified in 47 CFR Part 54 Subpart D and this chapter.

(F) 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.

(G) 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, unless the ETC properly files for a name or “DBA” change pursuant to 4 CSR 240-31.130(2)(MN). Use of other or additional names such as brand or service names shall be prohibited.

(H) An ETC, other than a provider of IVoIP service or broadband service under the Connect America Fund programs, shall maintain an intrastate tariff, wireless informational filing, or a publicly available website to display all rates concerning the company’s voice telephony services.

Comment [UCA9]: The Commission does not have the authority to impose this requirement on broadband service.

Formatted: Font: 12 pt

Formatted: Font: 12 pt

(I) An ETC shall maintain a current list of company-designated contacts within the commission’s Electronic Filing and Information System (EFIS).

(J) An ETC, other than a provider of IVoIP service or broadband service under the Connect America Fund programs, 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 subsection (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

Comment [UCA10]: The Commission does not have the authority to impose this requirement on broadband service.

Formatted: Font: 12 pt

Formatted: Font: 12 pt

the commitment of a felony by the ETC or such person or entity are made. Notice shall be made within thirty (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 thirty (30) days of releasing the decision.

(K) 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 thirty (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.

(L) 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 consistent with 4 CSR 240-10.010 of the commission's rules.

(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 at least ten (10) 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.

(O) No ETC shall 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.

(3) Annual Filing Requirements for ETCs.

(A) In order for an ETC to continue to receive Lifeline support for the following calendar year, all ETCs, including an ETC solely receiving Lifeline support, shall annually submit, no later than July 1 of each year the following information to the Missouri Commission's Electronic Filing and Information System:

1. A certification by an officer of the company, under penalty of perjury, that—
 - A. The company complies with each of the annual certification requirements identified in 47 CFR 54.416(a);
 - B. The company complies with all applicable Missouri Lifeline and Disabled program procedures as identified in 4 CSR 240-31.120;
 - C. The company complies with all requirements associated with the National Lifeline Accountability Database as identified in 47 CFR 54.404 when implemented;
 - D. The company's Lifeline service continues to meet the criteria set forth in 47 CFR 54.401;

E. For any company not assessing or collecting a monthly fee from its Lifeline subscribers, the company complies with the service activation and service de-enrollment requirements identified in 47 CFR 54.407(c) and 47 CFR 54.405(e)(3), respectively;

F. The company's Missouri operations solely use the name of the company as recognized by the commission for ETC designation in all marketing and other USF-related materials including filings with the FUSFA and the FCC; and

G. The company has complied with the notification requirements of 4 CSR 240-31.130(2)(J) and (K);

2. A statement indicating whether the company offers access to interexchange services, directory assistance services, and operator services;

3. A copy of the annual report required by 47 CFR 54.422;

~~4. If an ETC provides Lifeline discounted wholesale services to a reseller then the ETC shall identify the reseller;~~

54. The electronic address of any web site(s) whereby the company maintains information regarding the company's Lifeline service offering; and

65. A copy of the Lifeline and/or Disabled Application form(s) the ETC uses in Missouri.

(B) All ETCs receiving high-cost support, other than for the provision of broadband service through the Connect America Fund programs, shall submit, no later than July 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 commission's Electronic Filing and Information System:

1. An officer of the company shall certify under penalty of perjury that—

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. Wireless ETCs must 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. An explanation of how the company monitors, if at all, the quality of service provided by the company for its supported service(s). This explanation includes whether the company monitors the timeliness of providing service and remedying out-of-service conditions; and

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

(C) Filings by an ETC pursuant to this section shall be confidential.

(4) ETC Compliance.

(A) ETCs shall maintain full compliance with all ETC requirements identified in this chapter and in 47 CFR 54.

(B) Formal action to address ETC compliance issues may be initiated by a motion, complaint, or by the commission. The commission may 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.

Comment [UCA11]: The Commission does not have the authority to impose these requirements on broadband service.

Formatted: Font: 12 pt

(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 commission:

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

(D) The commission may grant a waiver of or variance from any provision of 4 CSR 240-31.010 through 4 CSR 240-31.130 for good cause, upon request or upon its own motion. A party wishing to obtain a waiver or variance shall file an application with the commission setting out the reason for its request.

AUTHORITY: section 392.200.2, RSMo Supp. 2013, and sections 392.248 and 392.470.1, RSMo 2000. Original rule filed Aug. 7, 2013, effective April 30, 2014.*

**Original authority: 392.200, RSMo 1939, amended 1987, 1988, 1996; 392.248, RSMo 1996; and 392.470.1, RSMo 1987.*