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May 31, 2005

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

Joint Committee on Administrative Rules
Room B-8a
Capitol Building
Jefferson City, MO 65101

Dear Secretary Carnahan,

Re: Rule 4 CSR 240-31.050
Eligibility for Funding—Low-Income Customers and Disabled Customers

CERTIFICATION OF ADMINISTRATIVE RULE

I hereby certify that the attached is an accurate and complete copy of the emergency amendment lawfully submitted by the Missouri Public Service Commission on this 31st day of May 2005.

I further certify that this emergency amendment is supported by a compelling governmental interest, the reasons for which are stated in the emergency statement.

Statutory Authority: Sections 392.200.2, 392.248 and 392.470.1 RSMo 2000.

Effective date of the rule: June 10, 2005

If there are any questions, please contact:

David Meyer, Senior Counsel
P.O. Box 360
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(573) 751-8701, FAX (573) 751-9285
david.meyer@psc.mo.gov

BY THE COMMISSION

Colleen M. Dale
Secretary/Chief Regulatory Law Judge

Robin Carnahan
Secretary of State
Administrative Rules Division
RULE TRANSMITTAL

Administrative Rules Stamp

RECEIVED

MAY 31 2005

SECRETARY OF STATE
ADMINISTRATIVE RULES

A "SEPARATE" rule transmittal sheet **MUST** be used for EACH individual rulemaking.

A. Rule Number 4 CSR 240-31.050

Diskette File Name Emergency Amendment 240-31.050

Name of person to call with questions about this rule:

Content David A. Meyer Phone 573/751-8706 FAX 573/751-9285

E-mail address david.meyer@psc.mo.gov

Data entry Carla Schnieders Phone 573-522-9038 FAX 573-526-6969

E-mail address carla.schnieders@psc.mo.gov

Interagency mailing address GOB, 200 Madison Street, 8th Floor, J.C. MO 65102

Statutory Authority: Sections 392.200.2, 392.248&392.470.1 Current RSMo date: 2000& Supp. 2004

Date filed with the Joint Committee on Administrative May 31, 2005

B. CHECKLIST guide for rule packets:

☒ This transmittal completed

☐ Forms, number of pages _____

☒ Cover letter

☐ Authority section with history of the rule

☐ Affidavit

☐ Public cost statement

☐ Small business impact statement

☐ Private cost statement

☐ Fiscal notes

☐ Hearing date

C. RULEMAKING ACTION TO BE TAKEN

☒ Emergency rulemaking (choose one) ☐ rule, ☒ amendment, ☐ rescission, or ☐ termination

MUST include effective : June 10, 2005

☐ Proposed Rulemaking (choose one) ☐ rule, ☐ amendment, or ☐ rescission

☐ Order of Rulemaking (choose one) ☐ rule, ☐ amendment, ☐ rescission, or ☐ termination

MUST complete page 2 of this transmittal

☐ Withdrawal (choose one) ☐ rule, ☐ amendment, ☐ rescission or ☐ emergency

☐ Rule action notice ☐ In addition ☐ Rule under consideration

D. SPECIFIC INSTRUCTIONS: Any additional information you may wish to provide to our staff _____

Small Business Regulatory
Fairness Board (DED) Stamp

JCAR Stamp

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RULE TRANSMITTAL (PAGE 2)

E. ORDER OF RULEMAKING: Rule Number _____

1a. Effective Date for the Order

Statutory 30 days

Specific date _____

1b. Does the Order of Rulemaking contain changes to the rule text?

☐ YES ☐ NO

1c. If the answer is YES, please complete section F.

If the answer is NO, **STOP** here.

NOTE: ALL changes MUST be specified here in order for those changes to be made in the rule as published in the *Missouri Register* and the *Code of State Regulations*.

Add additional sheet(s), if more space is needed.

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

EMERGENCY AMENDMENT

4 CSR 240-31.050 Eligibility for Funding—Low-Income Customers and Disabled Customers.

The commission is adding section (2), subsection (C); adding section (2), subsection (D); amending section (3), subsection (D); inserting new section (3), subsection (E); inserting new section (3), subsection (F); and relettering subsequent subsections.

PURPOSE: This proposed amendment incorporates reporting requirements in Section 2(C) and eligibility requirements in section 3(E) consistent with federal guidelines with an emergency rulemaking. A proposed amendment covering this same material will be filed within the next few weeks.

*EMERGENCY STATEMENT: The General Assembly created and the Missouri Public Service Commission approved the establishment of a Missouri Universal Service Fund to help low income and disabled Missourians receive discounts for basic local telephone service. This emergency amendment is necessary to establish record retention requirements for documents used in determining the eligibility of customers qualifying for low-income or disabled support. The emergency amendment also allows customers 60 days to show continued eligibility before losing low-income or disabled support. The Federal Communications Commission has promulgated rules and required state commissions to become consistent with federal rules by June 22, 2005. Certain telecommunications companies have expressed concerns that their federal Universal Service Fund support may be jeopardized if the Missouri Public Service Commission does not implement these rules by June 22, 2005. The FCC rules anticipate that some states will have their own rules. These states are known as non-default states and have the effect of preempting some of the federal rules relating to universal service funds. This Commission has indicated that it desires to maintain its own rules rather than defaulting to the FCC guidelines. If the Missouri Public Service Commission does not promulgate these rules, Missouri runs the risk of defaulting to the federal rules; thus, potentially subjecting carriers to costly and burdensome requirements (such as income-based criteria) this Commission chose not to incorporate. The Missouri Public Service Commission has used procedures best calculated to assure fairness to all interested persons and parties under the circumstances because it has discussed the emergency amendment with representatives of the telecommunications industry in Missouri. This emergency amendment follows procedures which comply with the protections extended by the **Missouri** and **United States Constitutions**. The scope of this emergency amendment is limited to the circumstances creating an emergency and requiring emergency action. A proposed amendment covering the same material will be published in a subsequent edition of the **Missouri Register**. This emergency amendment was filed May 31, 2005, effective June 10, 2005, and expires February 15, 2006.*

(2) Reporting Requirements.

(C) The eligible telecommunications companies shall maintain records to document compliance with all requirements governing the low-income customer program for the three

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(3) full preceding calendar years and provide that documentation to the commission or Fund Administrator upon request.

(D) Reporting requirements for wholesale or resold services.

1. If a telecommunications company provides low-income customer or disabled customer discounted wholesale services to a reseller, it must obtain a certification from the reseller that it is complying with all commission requirements governing the low-income customer or disabled customer programs.

2. Non-eligible-telecommunications-company resellers that purchase low-income customer or disabled customer discounted wholesale services to offer discounted services to low-income or disabled consumers must maintain records to document compliance with all commission requirements governing the low-income customer or disabled customer programs for the three (3) full preceding calendar years and provide that documentation to the commission or Fund Administrator upon request or until audited.

(3) Individual Eligibility.

(D) Individuals who qualify for low-income or disabled support shall certify in writing on an application designed for that purpose that they are eligible for the programs. Such application shall require the applicant to certify under penalty of perjury that the individual receives benefits from one of the qualifying programs and identify the program or programs from which that individual receives benefits. On the same document, a qualifying low-income or disabled individual also must agree to notify the carrier if that individual ceases to participate in the program or programs. **The application shall be used to certify individuals for both state and federal low-income support.** The companies shall rely upon this certification to provide the benefits under these programs until [the] individuals advise[s] the company that they are no longer qualified or until the company is advised by the administrator that the individuals may not be eligible.

(E) The telecommunications company shall, by December 31, 2005, establish procedures to verify a customer's continued eligibility for the low-income or disabled customer program. Verification procedures may include, but are not limited to, compliance with federal verification requirements, random beneficiary surveys, periodic submission of documentation showing participation in qualifying programs or periodic self-certification updates.

(F) The telecommunications company shall terminate an individual's enrollment in the low-income customer or disabled customer program if the customer ceases to meet eligibility requirements. Notification of impending termination shall be in the form of a letter separate from the individual's monthly bill. Individuals shall be allowed sixty (60) days following the date of the impending termination letter to demonstrate continued eligibility to the telecommunications company. The telecommunications company shall terminate discounted services supported by the low-income customer or disabled customer program to any customer who fails to demonstrate continued eligibility within the sixty (60) day time period.

([E]G) Any eligible individual submitting an application within sixty (60) days of initiating service will be entitled to the applicable low-income or disabled discounts from the date of service initiation. If applicable, the company may provide either a refund or credit, as determined by the company. Any eligible individual submitting an application after sixty (60) days of initiating service will begin receiving the appropriate discounts on a prospective basis.

([F]H) The fund administrator shall be authorized by the board to conduct audits of individual self-certification using records that can be lawfully made available from the administrators of qualifying programs. If as a result of these audits, the administrator determines that a recipient may not be eligible for low-income or disabled support, the individual shall be required to verify

eligibility for continuing to receive support pursuant to administrative procedures established by the fund administrator and approved by the board.

AUTHORITY: sections 392.200.2, 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.*

Original authority: 392.200, RSMo 1939, amended 1987, 1988, 1996; 392.248, RSMo 1996; and 392.470.1, RSMo 1987. Emergency amendment filed May 31, 2005, effective June 10, 2005, expires February 15, 2006. A proposed amendment covering this same material will be submitted for publication in a subsequent issue of the **Missouri Register.*

MEMORANDUM

TO: Colleen M. Dale, Secretary

DATE: May 31, 2005

RE: Authorization to File Proposed Emergency Amendments with the Office of Secretary of State

CASE NO: TX-2005-0437

The undersigned Commissioners hereby authorize the Secretary of the Missouri Public Service Commission to file the following Proposed Emergency Amendments with the Office of Secretary of State, to wit:

4 CSR 240-31.010, Definitions


4 CSR 240-31.050 Eligibility for Funding—Low-Income Customers and Disabled Customers



Jeff Davis, Chairman

Connie Murray, Commissioner

Steve Gaw, Commissioner

Robert Clayton III, Commissioner

Lin Appling, Commissioner