

**Commissioners**

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Chairman

**CONNIE MURRAY**

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**ROBERT M. CLAYTON III**

**LINWARD "LIN" APPLING**

**Missouri Public Service Commission**

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**WESS A. HENDERSON**  
Executive Director

**ROBERT SCHALLENBERG**  
Director, Utility Services

**COLLEEN M. DALE**  
Secretary/Chief Regulatory Law Judge  
**DAVID MEYER**  
General Counsel

RECEIVED  
MAY 31 2005  
SECRETARY OF STATE  
ADMINISTRATIVE RULES

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 240-31.010  
Definitions

**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  
Jefferson City, MO 65102  
(573) 751-8701, FAX (573) 751-9285  
[david.meyer@psc.mo.gov](mailto: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  
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SECRETARY OF STATE  
ADMINISTRATIVE RULES

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

- A. Rule Number 4 CSR 240-31.010  
Diskette File Name Emergency Amendment 240-31.010  
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, 8<sup>th</sup> 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:
- |  |   |
|--|---|
| <input checked="" type="checkbox"/> This transmittal completed | <input type="checkbox"/> Forms, number of pages _____               |
| <input checked="" type="checkbox"/> Cover letter               | <input type="checkbox"/> Authority section with history of the rule |
| <input type="checkbox"/> Affidavit                             | <input type="checkbox"/> Public cost statement                      |
| <input type="checkbox"/> Small business impact statement       | <input type="checkbox"/> Private cost statement                     |
| <input type="checkbox"/> Fiscal notes                          | <input type="checkbox"/> 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

JOINT COMMITTEE ON  
MAY 31 2005  
ADMINISTRATIVE RULES

**RULE TRANSMITTAL (PAGE 2)**

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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 240-31.010 Definitions.** The commission is amending sections (4), (9) (10) and (11).

*PURPOSE: This amendment is being proposed to incorporate additional eligibility requirements for low-income customers 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 expand the eligibility criteria for low-income support and to maximize Federal Universal Service support for low-income customers. The Missouri Universal Service Fund is now commencing operations and expects to begin offering customer support on June 1, 2005. The Federal Communications Commission, in expanding eligibility criteria, required state commissions to be consistent with federal rules by June 22, 2005. The amendment enhances the Fund's ability to assist low-income customers and disabled customers in obtaining affordable essential telecommunications services as directed by section 392.248.2(2) RSMo 2000. 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 issue of the **Missouri Register**. This emergency amendment was filed May 31, 2005, effective June 10, 2005, and expires February 15, 2006.*

(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 dependant that meets the definition of disabled set out in section 660.100.2 and is residing in the customer's household.**

|                             |
|-----------------------------|
| <b>JOINT COMMITTEE ON</b>   |
| <b>MAY 31 2005</b>          |
| <b>ADMINISTRATIVE RULES</b> |

(9) Low-income customer—Any customer who requests or receives residential essential local telecommunications service and **who participates** [*who has been certified by the Department of Social Services as economically disadvantaged by participation*] in Medicaid, food stamps, Supplementary Security Income (SSI), federal public housing assistance or Section 8, **National School Lunch Program's free lunch program, Temporary Assistance for Needy Families** or Low Income Home Energy Assistance Program (LIHEAP).

(10) Missouri Universal Service Board (board)—The board established by section 392.248.1, RSMo [*Supp.*] 2000 and comprised of members of the commission and the Public Counsel, which shall supervise the management of the MoUSF.

(11) Missouri Universal Service Fund (MoUSF or Fund)—The universal service fund established by section 392.248, RSMo [*Supp.*] 2000 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 assist low-income customers and disabled customers in obtaining affordable essential telecommunications services;

(C) 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.

*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

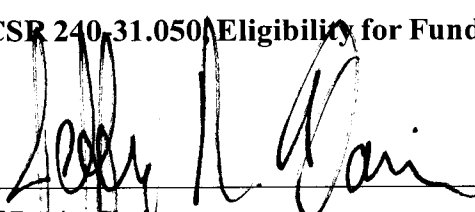
**RE:** Authorization to File Proposed Emergency Amendments with the Office of Secretary of State

**CASE NO:** TX-2005-0437

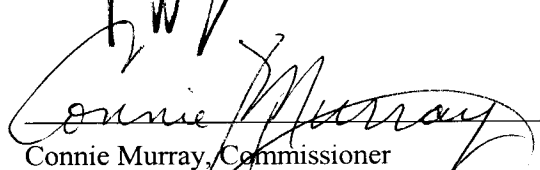
The undersigned Commissioners hereby authorize the Secretary of the Missouri Public Service Commission to file the following Proposed Emergency Amendments with the Office of Secretary of State, to wit:

**4 CSR 240-31.010, Definitions**

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



Jeff Davis, Chairman



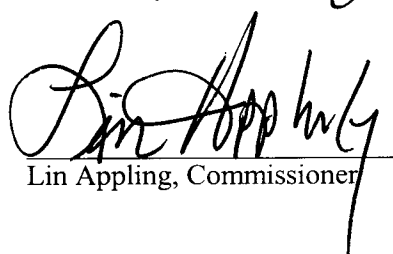
Connie Murray, Commissioner



Steve Gaw, Commissioner



Robert Clayton III, Commissioner



Lin Appling, Commissioner