

Robin Carnahan
Secretary of State
Administrative Rules Division
RULE TRANSMITTAL

Administrative Rules Stamp

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NOV 28 2005

SECRETARY OF STATE
ADMINISTRATIVE RULES

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

A. Rule Number 4 CSR 240-31.010
Diskette File Name Final Amendment 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 Tammy Vieth Phone 573-751-8377 FAX 573-751-9285
E-mail address tammy.vieth@psc.mo.gov
Interagency mailing address GOB, 200 Madison St. 8th Floor, Jefferson City, MO 65102
Statutory Authority Sections 392.200, 392.248 & 392.470 Current RSM date 2000 & Supp. 2004
Date filed with the Joint Committee on Administrative Rules October 25, 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 date _____

☐ 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
OCT 25 2005
ADMINISTRATIVE RULES

RULE TRANSMITTAL (PAGE 2)

E. ORDER OF RULEMAKING: Rule Number 4 CSR 240-31.010

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.

F. Please provide a complete list of the changes in the rule text for the order of rulemaking, indicating the specific section, subsection, paragraph, subparagraph, part, etc., where each change is found. It is especially important to identify the parts of the rule that are being deleted in this order of rulemaking. Give an explanation of each section, subsection, etc. which has been changed since the proposed rulemaking was published in the Register.

In 4 CSR 240-31.010(9), the commission removes the phrase

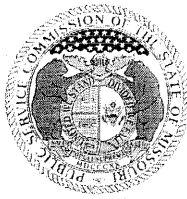
“has been certified by the Department of Social Services as economically disadvantaged by participation”

and replaces it with the phrase

“participates or has a dependent residing in the customer’s household who participates”

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.



Commissioners

JEFF DAVIS
Chairman

CONNIE MURRAY

STEVE GAW

ROBERT M. CLAYTON III

LINWARD "LIN" APPLING

Missouri Public Service Commission

POST OFFICE BOX 360
JEFFERSON CITY MISSOURI 65102
573-751-3234
573-751-1847 (Fax Number)
<http://www.psc.mo.gov>

WESS A. HENDERSON
Executive Director

ROBERT SCHALLENBERG
Director, Utility Services

WARREN WOOD
Director, Utility Operations

COLLEEN M. DALE
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

November 28, 2005

Hon. Robin Carnahan
Secretary of State
Administrative Rules Division
600 West Main Street
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 proposed amendment lawfully submitted by the Missouri Public Service Commission on this 28th of November 2005.

Statutory Authority: Section 392.200.2 RSMo Supp. 2004 and Sections 392.248 and 392.470.1 RSMo 2000.

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

BY THE COMMISSION

A handwritten signature in black ink, appearing to read "Colleen M. Dale".

Colleen M. Dale
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission

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

NOV 28 2005

SECRETARY OF STATE
ADMINISTRATIVE RULES

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under sections 386.250 and 392.248, RSMo. 2000, the Public Service Commission amends a rule as follows:

4 CSR 240-31.010 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2005 (30 MoReg 1617). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held on September 12, 2005. Written comments were also filed with the Public Service Commission addressing the proposed amendments. At the public hearing, the staff of the Public Service Commission explained the proposed amendment and made comments in support of one (1) change to the proposed amendment.

COMMENT: Natelle Dietrich, on behalf of the staff of the Missouri Public Service Commission, filed written comments and testified at hearing in support of the proposed amendment to 4 CSR 240-31.010(4). She indicated that this amendment modifies the existing definition of “disabled customer” to include dependents of telecommunications customers that reside in the same household and meet the statutory definition of “disabled.” She further indicated that this amendment provides clarity between the existing rules, previous commission orders and company tariffs, all of which had different language on the treatment of dependents. The Office of the Public Counsel filed written comments concurring with the comments of the staff of the commission regarding this proposed amendment.

RESPONSE: No changes have been made to the amendment as a result of the general comments. The commission has previously found that this rule amendment is necessary to carry out the purposes of sections 386.250, 392.185 and 392.248 RSMo. (2000) as well as section 392.200 RSMo. (Supp. 2004).

COMMENT: Natelle Dietrich of the staff of the Missouri Public Service Commission filed written comments and testified in support of the proposed amendment to 4 CSR 240-31.010(9). She indicated that this amendment adds two (2) new programs as additional means for customers to qualify for low income assistance: the National School Lunch Program’s free lunch program and Temporary Assistance for Needy Families. She further indicated that inclusion of these programs is consistent with the FCC new rules, which were an attempt to increase subscribership to the federal Lifeline program. The Office of the Public Counsel filed written comments concurring with the comments of the staff of the commission regarding this proposed amendment.

RESPONSE: No changes have been made to the amendment as a result of the general comments. The commission has previously found that this rule amendment is necessary to carry out the purposes of sections 386.250, 392.185 and 392.248 RSMo. (2000) as well as section 392.200 RSMo. (Supp. 2004).

COMMENT: Natelle Dietrich of the staff of the Missouri Public Service Commission filed written comments and testified in support of a modification to the proposed amendment to 4 CSR 240-31.010(9). She indicated that in June 2005, an individual wrote a letter to the St. Louis Post-Dispatch expressing concerns that recent changes in eligibility for Medicaid would reduce the number of customers that qualify for low income assistance in Missouri. The staff then contacted representatives of Missouri local exchange companies and was assured that customers would not lose assistance simply because of a

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change in eligibility requirements, although all indicated the emergency and proposed rules as published would allow such discontinuance of assistance. To remove uncertainty, Ms. Dietrich indicated that the definition of “low-income customer” should be further modified consistent with “disabled customer” to include dependents within the household as meeting the qualifications for a customer to receive low income assistance. Staff also contacted a representative of the Department of Social Services concerning information gathered for dependents in the household when receiving support assistance. A dependent’s name, address and social security number are noted for any individual within a household receiving assistance. The Office of the Public Counsel filed written comments concurring with the comments of the staff of the commission regarding this proposed amendment.

RESPONSE AND EXPLANATION OF CHANGE: The commission has considered the comments and agrees that a change to the proposed rule is appropriate. To address the concern expressed in the comment and to ensure that customers currently receiving low income assistance do not lose that assistance, the commission will remove the phrase

“has been certified by the Department of Social Services as economically disadvantaged by participation”

and replace it with the phrase

“participates or has a dependent residing in the customer’s household who participates”

in 4 CSR 240-31.010(9).

4 CSR 240-31.010 Definitions

(9) Low-income customer – Any customer who requests or receives residential essential local telecommunications service and who participates or has a dependent residing in the customer’s household who participates in Medicaid, food stamps, Supplementary Security Income (SSI), federal public housing assistance of Section 8, National School Lunch Program’s free lunch program, Temporary Assistance for Needy Families or Low Income Home Energy Assistance Program (LIHEAP).

Robin Carnahan
Secretary of State
Administrative Rules Division
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ADMINISTRATIVE RULES

COPY

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

A. Rule Number 4 CSR 240-31.030

Diskette File Name Final Amendment 31.030

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 Tammy Vieth Phone 573-751-8377 FAX 573-751-9285

E-mail address tammy.vieth@psc.mo.gov

Interagency mailing address GOB, 200 Madison St. 8th Floor, Jefferson City, MO

Statutory Authority Sections 392.200, 392.248 & 392.470 Current RSMo date 2000 & Supp. 2004

Date filed with the Joint Committee on Administrative Rules October 25, 2005

B. CHECKLIST guide for rule packets:

☒ This transmittal completed

☒ Cover letter

☐ Affidavit

☐ Small business impact statement

☐ Fiscal notes

☐ Forms, number of pages

☐ Authority section with history of the rule

☐ Public cost statement

☐ Private cost statement

☐ Hearing date

C. RULEMAKING ACTION TO BE TAKEN

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

MUST include effective date

☐ 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
OCT 25 2005
ADMINISTRATIVE RULES

RULE TRANSMITTAL (PAGE 2)

E. ORDER OF RULEMAKING: Rule Number 4 CSR 240-31.030

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.

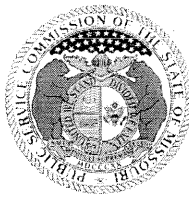
F. Please provide a complete list of the changes in the rule text for the order of rulemaking, indicating the specific section, subsection, paragraph, subparagraph, part, etc., where each change is found. It is especially important to identify the parts of the rule that are being deleted in this order of rulemaking. Give an explanation of each section, subsection, etc. which has been changed since the proposed rulemaking was published in the Register.

The commission adds the following language beginning at the end of the last sentence of 4 CSR 240-31.030(2):

“... 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.”

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.



Commissioners

JEFF DAVIS
Chairman

CONNIE MURRAY

STEVE GAW

ROBERT M. CLAYTON III

LINWARD "LIN" APPLING

Missouri Public Service Commission

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Director, Utility Services

WARREN WOOD
Director, Utility Operations

COLLEEN M. DALE
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

November 28, 2005

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

Dear Secretary Carnahan,

Re: Rule 4 CSR 240-31.030
The Fund Administrator

CERTIFICATION OF ADMINISTRATIVE RULE

I hereby certify that the attached is an accurate and complete copy of the proposed amendment lawfully submitted by the Missouri Public Service Commission on this 28th of November 2005.

Statutory Authority: Section 392.200.2 RSMo Supp. 2004 and Sections 392.248 and 392.470.1 RSMo 2000.

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

BY THE COMMISSION

A handwritten signature in black ink, appearing to read "Colleen M. Dale", is written over a circular stamp that contains the text "BY THE COMMISSION".

Colleen M. Dale
Secretary/Chief Regulatory Law Judge

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

NOV 28 2005

**SECRETARY OF STATE
ADMINISTRATIVE RULES**

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under Sections 386.250 and 392.248, RSMo. 2000, the Public Service Commission amends a rule as follows:

4 CSR 240-31.030 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2005 (30 MoReg 1617). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held on September 12, 2005. Written comments were also filed with the Public Service Commission addressing the proposed amendments. At the public hearing, the staff of the Public Service Commission explained the proposed amendment and two (2) other participants provided comments.

COMMENT: Natelle Dietrich, on behalf of the staff of the Missouri Public Service Commission, filed written comments and testified in support of the proposed amendment. Ms. Dietrich supports the proposed amendment to section (2) to clarify that the books and records of the fund administrator are open records, but records containing company-specific information shall not be opened unless release is approved and authorized by the Board. She further indicated that this amendment is consistent with Commission rules, which treat certain company-specific information such as line count data as confidential upon request of the company. Robert Gryzmala, on behalf of Southwestern Bell Telephone, L.P. d/b/a SBC Missouri, Inc., and Michael Dandino of the Office of the Public Counsel also filed written comments and testified generally in support of the proposed amendment.

RESPONSE: No changes have been made to the amendment as a result of the general comments. The commission has previously found that this rule amendment is necessary to carry out the purposes of sections 386.250, 392.185 and 392.248 RSMo. (2000) as well as section 392.200 RSMo. (Supp. 2004).

COMMENT: Robert Gryzmala, on behalf of Southwestern Bell Telephone, L.P. d/b/a SBC Missouri, Inc., filed written comments and testified regarding a proposed change to the amendment to section (2). SBC Missouri proposed having the commission, not the Missouri Universal Service Board, make a determination regarding release of records containing company-specific information. SBC Missouri indicated that the legislature could have specifically identified this responsibility, but it did not. Natelle Dietrich, on behalf of the staff of the Missouri Public Service Commission, testified that since the records at issue are in the possession of the Board or the Board's administrator, they are the property of the Board to release. Michael F. Dandino of the Office of the Public Counsel testified that it is reasonable for the Board to determine the issue of confidentiality, and that an aggrieved party can appeal the Board's decision to the commission.

RESPONSE: The commission will not modify the proposed amendment to place the decision on whether information held by the Missouri Universal Service Board should be released directly in the commission's hands. The records are in the possession of the Board or its administrator, and the Board is in the best position to conduct an initial review of the confidential nature of the information at issue. Moreover, a party that disagrees with a determination by the Board has the opportunity to appeal that decision to the commission.

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COMMENT: Robert Gryzmala, on behalf of SBC Missouri also proposed that a company whose information is subject to release should be provided an opportunity to be heard and/or object prior to any decision authorizing the release of records containing such information. Ms. Dietrich on behalf of the staff of the Missouri Public Service Commission agreed, and proposed specific language to address this concern.

RESPONSE AND EXPLANATION OF CHANGE: The Commission has considered the comments and agrees that a change to the proposed rule is reasonable and appropriate. To eliminate the concern expressed by the commenters and to afford potentially affected entities the opportunity to participate, the commission will change section (2) to add the following language beginning at the end of the last sentence of that section: "... 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."

4 CSR 240-31.030(2) The Fund Administrator.

(2) The Fund Administrator shall be a fiduciary with trust company powers. It shall keep the books and records relating to its administration and operation of the Missouri Universal Service Fund (MoUSF) in accordance with generally accepted accounting principles. Books and records of the Fund Administrator 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.

ADMINISTRATIVE RULES

RULE TRANSMITTAL (PAGE 2)

E. ORDER OF RULEMAKING: Rule Number 4 CSR 240-31.050

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.

F. Please provide a complete list of the changes in the rule text for the order of rulemaking, indicating the specific section, subsection, paragraph, subparagraph, part, etc., where each change is found. It is especially important to identify the parts of the rule that are being deleted in this order of rulemaking. Give an explanation of each section, subsection, etc. which has been changed since the proposed rulemaking was published in the Register.

To the end of paragraph (2)(D)1, the commission adds the language

“..., and such reseller must provide a certification to the telecommunications company upon request.”

To paragraph (3)(E), the commission

1. inserts the word “State” at the beginning of the second sentence;
2. inserts the words “processes or guidelines;” after the third comma in the second sentence;
3. replaces the fourth comma with a semicolon in the second sentence;
4. inserts a semicolon between the words ‘programs’ and ‘or’ in the second sentence;
5. adds the following sentence to the end of the paragraph:

A copy of these procedures shall be made available to the commission staff and/or the Office of Public Counsel for review within thirty (30) days of request. If, upon review, the commission staff and/or the Office of Public Counsel have concerns about the sufficiency of a company’s verification procedures, the commission staff and/or the Office of Public Counsel shall present those concerns to the Missouri Universal Service Board for review.

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.



Commissioners

JEFF DAVIS
Chairman

CONNIE MURRAY

STEVE GAW

ROBERT M. CLAYTON III

LINWARD "LIN" APPLING

Missouri Public Service Commission

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Executive Director

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Director, Utility Services

COLLEEN M. DALE
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

November 28, 2005

Hon. Robin Carnahan
Secretary of State
Administrative Rules Division
600 West Main Street
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 proposed amendment lawfully submitted by the Missouri Public Service Commission on this 28th of November 2005.

Statutory Authority: Section 392.200.2 RSMo Supp. 2004 and Sections 392.248 and 392.470.1 RSMo 2000.

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

BY THE COMMISSION

A handwritten signature in black ink, appearing to read "Colleen M. Dale", is written over a circular stamp that contains the text "BY THE COMMISSION".

Colleen M. Dale
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission

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

NOV 28 2005

SECRETARY OF STATE
ADMINISTRATIVE RULES

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under sections 386.250 and 393.140, RSMo. 2000, the Public Service Commission amends a rule as follows:

4 CSR 240-31.050 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2005 (30 MoReg 1617). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held on September 12, 2005. Written comments were also filed with the Public Service Commission addressing the proposed amendments. At the public hearing, the staff of the Public Service Commission explained the proposed amendment and made comments in support of one (1) change to the proposed amendment and and three (3) other participants provided comments in support of changes to the amendment.

COMMENT: Natelle Dietrich, on behalf of the Staff of the Missouri Public Service Commission, filed written comments and testified in support of the proposed amendment to 4 CSR 240-31.050(2)(C) and (D). She indicated that this proposed amendment incorporates federal reporting requirements for telecommunications companies providing low income assistance. To limit the fiscal impact that would be imposed by this federal requirement, the requirements were not expanded to the disabled program since it is a Missouri-only program. However, in subsection (D), companies that purchase low income or disabled discounted wholesale or resold services are required to maintain records demonstrating compliance with all commission regulations for low-income customer or disabled customer programs. Since these companies are removed from direct Commission, Missouri Universal Service Board, or administrator purview, the Staff testified that this requirement is reasonable to ensure proper use of the fund.

RESPONSE: No changes have been made to the amendment as a result of the general comments. The commission has previously found that this rule amendment is necessary to carry out the purposes of sections 386.250, 392.185 and 392.248 RSMo. (2000) as well as section 392.200 RSMo. (Supp. 2004).

COMMENT: Robert Gryzmala, on behalf of Southwestern Bell Telephone, L.P. d/b/a SBC Missouri, filed written comments and testified in support of a modification to the proposed amendment to paragraph (2)(D)1. SBC Missouri proposed that the rule should contain an affirmative, reciprocal duty upon the reseller to provide a certification that it is complying with all commission requirements governing the low-income customer or disabled customer programs when requested by a telecommunications company. SBC Missouri supports this modification because the reseller is the entity most in control of the information required by the rule. Accordingly, SBC Missouri suggests that the commission add the language "..., and such reseller must provide a certification to the telecommunications company upon request." The commission staff and the Office of the Public Counsel commenters both stated they had no objection to this modification.

RESPONSE AND EXPLANATION OF CHANGE: The commission will modify the proposed amendment and add the language SBC Missouri has proposed to paragraph (2)(D)1. The commission finds that the additional language is reasonable and appropriate, and recognizes that the reseller has possession of the information required by the telecommunications company.

JOINT COMMITTEE ON
OCT 25 2005
ADMINISTRATIVE RULES

COMMENT: Natelle Dietrich, on behalf of the staff of the Missouri Public Service Commission, filed written comments and testified in support of the proposed amendments to 4 CSR 240-31.050(3)(D), (E) and (F). She indicated that the proposed amendments to section (3) largely incorporate federal requirements that telecommunications companies annually verify a customer's continued eligibility and notify a customer before terminating low-income customer or disabled customer support, allowing the customer sixty days to provide evidence of continued eligibility.

RESPONSE: No changes have been made to the amendment as a result of the general comments. The commission has previously found that this rule amendment is necessary to carry out the purposes of sections 386.250, 392.185 and 392.248 RSMo. (2000) as well as section 392.200 RSMo. (Supp. 2004).

COMMENT: Robert Gryzmala on behalf of SBC Missouri filed written comments and testified regarding a proposed modification to 4 CSR 240-31.050(3)(E). SBC Missouri requests that the reference to "compliance with federal verification requirements" should be deleted from the list of verification procedures in that subsection. SBC Missouri believed that the reference implied, incorrectly, that there is a federal requirement because the federal rules direct compliance with whatever state-determined rules may exist in states such as Missouri that have state-mandated funds. Natelle Dietrich on behalf of the staff of the commission filed written comments and testified that the federal requirement that a telecommunications company is to annually verify a customer's continued eligibility was seen as particularly burdensome and potentially costly during discussions with telecommunications company representatives. For this reason, the proposed amendment was developed to permit alternative procedures, but still complies with the requirements of the Federal Communications Commission. Ms. Dietrich testified that staff worked with telecommunications carriers to develop language that was generic enough to address all concerns. Although she indicated staff was not willing to remove the language as suggested by SBC Missouri, staff did suggest inserting the word "state" in two locations and broadening the reference to federal verification requirements by removing "compliance with" and adding "processes or guidelines." Staff anticipates that these changes will allow carriers with federal procedures to incorporate those processes in Missouri while expanding the phraseology to allow for other methods of verification.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds that the modifications as proposed by staff are warranted. The clarification that the requirements are state, not federal, procedures and the modification to broaden the reference to federal requirements clarifies that there are no federally-imposed verification procedures; rather, there are only procedures that are put in place to comply with federal requirements.

COMMENT: Michael Dandino, on behalf of the Office of the Public Counsel, testified that companies should file or notify the Missouri Universal Service Board or the commission of the guidelines, processes or procedures that they establish for customer verification to allow the board to review them to determine if they are overly stringent or too lax. He suggested adding this requirement to 4 CSR 240-31.050(3)(E). Robert Gryzmala on behalf of SBC Missouri testified that SBC Missouri did not recommend this requirement, in part because the Federal Communication Commission's order did not provide states with the authority to review the companies' procedures. Natelle Dietrich on behalf of the staff of the commission testified that staff had no objection to imposing this requirement, but expressed a concern with what the recipient would do with the information. She indicated that the requirement as set forth by the Federal Communications Commission was open-ended and did not appear to have a specific standard that must be met. She also indicated that companies have an incentive to maintain sufficient and adequate procedures because they also pertain to the commission's annual certification of their high cost fund eligibility. Barbara Meisenheimer testified on behalf of the Office of Public Counsel that subsection (E) provided a method of reasonable verification but that the company's procedures should be placed on file. She indicated that the Office of Public Counsel could accept an alternative process that would allow the

agency the ability to review the procedures to ensure they are not burdensome on customers and do not create obstacles to participation.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds that in order to ensure that the procedures to verify customer eligibility are not overly burdensome and do not create obstacles to participation, that a copy of those procedures shall be made available to the commission staff and/or the Office of Public Counsel for review within thirty (30) days of request. The commission further finds that if, upon review, the commission staff and/or the Office of Public Counsel have concerns about the sufficiency of a company's verification procedures, such concerns will be presented to the board for review.

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

(2) Reporting Requirements

(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, and such reseller must provide a certification to the telecommunications company upon request.

(3) Individual Eligibility

(E) The telecommunications company shall, by December 31, 2005, establish state procedures to verify a customer's continued eligibility for the low-income or disabled customer program. State verification procedures may include, but are not limited to, compliance with federal verification requirements, processes or guidelines; random beneficiary surveys; periodic submission of documentation showing participation in qualifying programs; or periodic self-certification updates. A copy of these procedures shall be made available to the commission staff and/or the Office of Public Counsel for review within thirty (30) days of request. If, upon review, the commission staff and/or the Office of Public Counsel have concerns about the sufficiency of a company's verification procedures, the commission staff and/or the Office of Public Counsel shall present those concerns to the Missouri Universal Service Board for review.

Robin Carnahan
Secretary of State
Administrative Rules Division
RULE TRANSMITTAL

Administrative Rules Stamp

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NOV 28 2005

SECRETARY OF STATE
ADMINISTRATIVE RULES

COPY

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

- A. Rule Number 4 CSR 240-31.060
Diskette File Name Final Amendment 31.060
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 Tammy Vieth Phone 573-751-8377 FAX 573-751-9285
E-mail address tammy.vieth@psc.mo.gov
Interagency mailing address GOB, 200 Madison St. 8th Floor, Jefferson City, MO
Statutory Authority Sections 392.200, 392.248 & 392.470 Current RSMo date 2000 & Supp. 2004
Date filed with the Joint Committee on Administrative Rules October 25, 2005
- B. CHECKLIST guide for rule packets:
- | | |
|--|---|
| <input checked="" type="checkbox"/> This transmittal completed | <input type="checkbox"/> Forms, number of pages <u> </u> |
| <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 <u> </u> |
- C. RULEMAKING ACTION TO BE TAKEN
- ☐ Emergency rulemaking (choose one) ☐ rule, ☐ amendment, ☐ rescission, or ☐ termination
- MUST** include effective date
- ☐ 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

OCT 25 2005

ADMINISTRATIVE RULES

RULE TRANSMITTAL (PAGE 2)

E. ORDER OF RULEMAKING: Rule Number 4 CSR 240-31.060

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

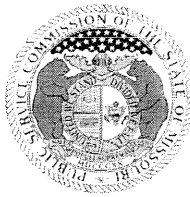
1c. If the answer is YES, please complete section F.

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

F. Please provide a complete list of the changes in the rule text for the order of rulemaking, indicating the specific section, subsection, paragraph, subparagraph, part, etc., where each change is found. It is especially important to identify the parts of the rule that are being deleted in this order of rulemaking. Give an explanation of each section, subsection, etc. which has been changed since the proposed rulemaking was published in the Register.

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.



Commissioners

JEFF DAVIS
Chairman

CONNIE MURRAY

STEVE GAW

ROBERT M. CLAYTON III

LINWARD "LIN" APPLING

Missouri Public Service Commission

POST OFFICE BOX 360
JEFFERSON CITY MISSOURI 65102
573-751-3234
573-751-1847 (Fax Number)
<http://www.psc.mo.gov>

WESS A. HENDERSON
Executive Director

ROBERT SCHALLENBERG
Director, Utility Services

COLLEEN M. DALE
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

November 28, 2005

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

Dear Secretary Carnahan,

Re: Rule 4 CSR 240-31.060
Assessments for MoUSF Funding

CERTIFICATION OF ADMINISTRATIVE RULE

I hereby certify that the attached is an accurate and complete copy of the proposed amendment lawfully submitted by the Missouri Public Service Commission on this 28th of November 2005.

Statutory Authority: Section 392.200.2 RSMo Supp. 2004 and Sections 392.248 and 392.470.1 RSMo 2000.

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

BY THE COMMISSION

A handwritten signature in black ink, appearing to read "Colleen M. Dale".

Colleen M. Dale
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission

**COPY
RECEIVED**

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

NOV 28 2005

**SECRETARY OF STATE
ADMINISTRATIVE RULES**

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under sections 386.250 and 392.248, RSMo. 2000, the Public Service Commission amends a rule as follows:

4 CSR 240-31.060 Assessments for MoUSF Funding is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2005 (30 MoReg 1619). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held on September 12, 2005. Written comments were also filed with the Public Service Commission addressing the proposed amendments. In written comments and at the public hearing, the staff of the Public Service Commission explained the proposed amendment.

COMMENT: Natelle Dietrich, on behalf of the staff of the Missouri Public Service Commission, filed written comments and testified in support of the proposed amendment. Staff supports the amendment because the modifications provide clarity. References to “telecommunications companies” are being replaced with references to “applicable carriers.” According to the definitions in 4 CSR 240-31.010, only the subset of telecommunications carriers that qualify as “applicable carriers” are subject to assessment and net jurisdictional revenue calculations; therefore, references to “telecommunications companies” were inaccurate. Staff further testified in support of the proposed amendment to clarify that the Missouri Universal Service Board reviews and “authorizes” the percentage assessment “to be submitted to the commission for approval”. Since this is an amount to be placed on customer bills via commission rule and company tariff, the commission is the body authorized to approve the tariffed amounts. The Office of the Public Counsel filed written comments generally concurring with the comments of the Staff of the Commission.

RESPONSE: No changes have been made to the amendment as a result of the general comments. The commission has previously found that this rule amendment is necessary to carry out the purposes of sections 386.250, 392.185 and 392.248 RSMo. (2000) as well as section 392.200 RSMo. (Supp. 2004).

**JOINT COMMITTEE ON
OCT 25 2005
ADMINISTRATIVE RULES**

Robin Carnahan
Secretary of State
Administrative Rules Division
RULE TRANSMITTAL

Administrative Rules Stamp

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NOV 28 2005

SECRETARY OF STATE
ADMINISTRATIVE RULES

COPY

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

- A. Rule Number 4 CSR 240-31.080
Diskette File Name Final Amendment 31.080
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 Tammy Vieth Phone 573-751-8377 FAX 573-751-9285
E-mail address tammy.vieth@psc.mo.gov
Interagency mailing address GOB, 200 Madison St. 8th Floor, Jefferson City, MO
Statutory Authority Sections 392.200, 392.248 & 392.470 Current RSMo date 2000 & Supp. 2004
Date filed with the Joint Committee on Administrative Rules Exempt per Sections 536.024
and 536.037 RSMo 2000, and Executive Order No. 97-97 (June 27, 1997)

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 date _____

- ☐ 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
OCT 25 2005
ADMINISTRATIVE RULES

RULE TRANSMITTAL (PAGE 2)

E. ORDER OF RULEMAKING: Rule Number 4 CSR 240-31.080

1a. Effective Date for the Order

☒ Statutory 30 days

Specific date _____

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

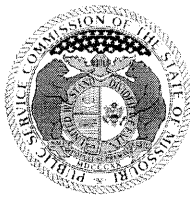
☐ YES ☒ NO

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

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

F. Please provide a complete list of the changes in the rule text for the order of rulemaking, indicating the specific section, subsection, paragraph, subparagraph, part, etc., where each change is found. It is especially important to identify the parts of the rule that are being deleted in this order of rulemaking. Give an explanation of each section, subsection, etc. which has been changed since the proposed rulemaking was published in the Register.

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.



Commissioners

JEFF DAVIS
Chairman

CONNIE MURRAY

STEVE GAW

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

DANA K. JOYCE
General Counsel

November 28, 2005

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

Dear Secretary Carnahan,

Re: Rule 4 CSR 240-31.080
Applications for MoUSF Funds

CERTIFICATION OF ADMINISTRATIVE RULE

I hereby certify that the attached is an accurate and complete copy of the proposed amendment lawfully submitted by the Missouri Public Service Commission on this 28th of November 2005.

Statutory Authority: Section 392.200.2 RSMo Supp. 2004 and Sections 392.248 and 392.470.1 RSMo 2000.

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

BY THE COMMISSION

A handwritten signature in black ink, appearing to read "Colleen M. Dale", is written over a horizontal line.

Colleen M. Dale
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission

COPY RECEIVED

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

NOV 28 2005

SECRETARY OF STATE
ADMINISTRATIVE RULES

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under sections 386.250 and 392.248, RSMo. 2000, the Public Service Commission amends a rule as follows:

4 CSR 240-31.080 Applications for MoUSF Funds is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2005 (30 MoReg 1619). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held on September 12, 2005. Written comments were also filed with the Public Service Commission addressing the proposed amendments. In written comments and at the public hearing, the staff of the Public Service Commission explained the proposed amendment.

COMMENT: Natelle Dietrich, on behalf of the staff of Missouri Public Service Commission, filed written comments and testified in support of the proposed changes to this rule. Staff supports the proposed amended rule because it provides clarity, explicitly provides notice of the commission's expectations regarding form completion, and removes outdated cross-references. The Office of the Public Counsel filed written comments concurring with the comments of the Staff of the Commission.

RESPONSE: No changes have been made to the amendment as a result of the general comments. The commission has previously found that this rule amendment is necessary to carry out the purposes of sections 386.250, 392.185 and 392.248 RSMo. (2000) as well as section 392.200 RSMo. (Supp. 2004).

JOINT COMMITTEE ON
OCT 25 2005
ADMINISTRATIVE RULES

MEMORANDUM

TO: Colleen M. Dale, Secretary

DATE: October 25, 2005

RE: Approval of Final Rules and Authorization to File Order Amending Rules with the Office of Secretary of State

CASE NO: TX-2005-0460

The undersigned Commissioners hereby amend the rules listed below and authorize the General Counsel's Office of the Missouri Public Service Commission to file the final rule packets for the amended rules with the Joint Committee on Administrative Rules and the Office of Secretary of State.

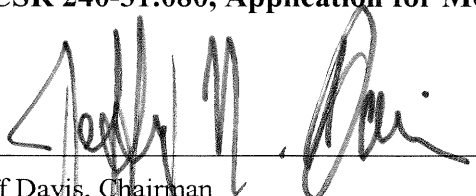

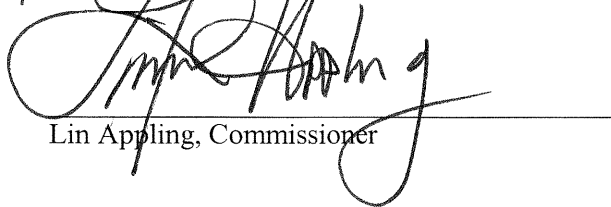
4 CSR 240-31.010, Definitions

4 CSR 240-31.030, The Fund Administrator

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

4 CSR 240-31.060, Assessments for MoUSF Funding

4 CSR 240-31.080, Application for MoUSF Funds.


Jeff Davis, Chairman
Connie Murray, Commissioner
Steve Gaw, Commissioner
Robert Clayton III, Commissioner
Lin Appling, Commissioner