

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

In the Matter of a Proposed Rulemaking to
Amend 4 CSR 240-31.050, Eligibility for
Funding—Low-Income Customers and
Disabled Customers

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Case No. TX-2008-_____

MOTION FOR FINAL ORDER OF RULEMAKING

COMES NOW the Staff of the Missouri Public Service Commission, by and through its Office of General Counsel, pursuant to section 536.016 RSMo (2000), and for its Motion for Final Order of Rulemaking states as follows:

1. Section 536.016 provides that a state agency shall propose rules based upon “substantial evidence upon the record and a finding by the agency that the rule is necessary to carry out the purposes of the statute that granted such rulemaking authority.”

2. Pursuant to statutory authority and public interest requirements, Staff recommends the Commission amend the existing rules governing the standards for determining and verifying eligibility for participation in the Low-Income Customer and Disabled Customer programs of the Universal Service Fund (USF).

3. Attached as Exhibit A is a draft of a proposed rule for the Commission’s consideration.

4. An audit of the Missouri USF program, completed by McBride Lock and Associates, indicated that greater assurances of participant eligibility would be desirable to better ensure the appropriate disbursement of USF monies. The proposed rulemaking implements that recommendation.

WHEREFORE, the Staff respectfully requests that the Commission issue a Final Order of Rulemaking to amend 4 CSR 240-31.050, Eligibility for Funding—Low-Income Customers and Disabled Customers, to provide additional safeguards against fraud on the Universal Service Fund.

Respectfully submitted,

/s/ Sarah Kliethermes
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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record this 24th day of October, 2007.

/s/ Sarah Kliethermes

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

PROPOSED AMENDMENT

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

PURPOSE: This amendment establishes processes for the Missouri Public Commission and its Staff to complete audits of customers receiving low income or disabled support in response to a recommendation of the Missouri Universal Service Fund external auditor.

(3) Individual Eligibility.

(D) Individuals who qualify for low-income or disabled support shall **complete a Board-approved application.**

1. By completing the application, customers 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.]

A. [Such application shall require the applicant to c]Certify under penalty of perjury that the individual or a dependent residing in the individual's household receives benefits from one of the qualifying programs; [and]

B. [i]Identify the program or programs from which that individual receives benefits;

C. Sign an authorization allowing, for the duration of the applicant's participation in the low-income or disabled support program, the appropriate federal, state or local agency to confirm to the commission or its staff that the individual or a dependent residing in the individual's household participates in the qualifying program(s) at the time the application is made, and as subsequently deemed necessary for purposes of annual verification or other examinations of eligibility; and

D. [On the same document, a qualifying low-income or disabled individual also must a] Agree to notify the carrier if that individual ceases to participate in the program or programs.

2. Customers who qualify for low-income or disabled support shall provide documentation of participation in the applicable program(s) as identified on the application.

A. The telecommunications company shall develop a process for recording the type of documentation received; and

B. The telecommunications company shall develop a process for returning or destroying the documentation once recorded.

3. [Such] The application shall be used to certify individuals for both state and federal low-income support.

Exhibit A

4. The companies shall rely upon *[this certification]* **application and documentation of participation** to provide the benefits under these programs until individuals advise the company that they are no longer qualified, *[or]* until the company is advised by the **commission or its staff** *[administrator]* that individuals *[may not be]* **are not eligible, or until the company does not receive annual verification as contemplated in subsection (E).**

(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.

1. State verification procedures may include, but are not limited to, compliance with federal verification requirements, processes or guidelines. *[; random beneficiary surveys; periodic]*

2. **Whenever an individual requests support on the basis of participation in any program other than that initially identified, State verification procedures shall include self-certification updates and documentation of participation for any program in which an individual has not previously self-certified and documented** *[submission of documentation showing participation in qualifying programs ; or and periodic self-certification updates]*.

A. **The telecommunications company shall develop a process for recording the type of documentation received; and**

B. **The telecommunications company shall develop a process for returning or destroying the documentation once recorded.**

3. A copy of *[these]* **the telecommunications company verification** 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.

(F) The telecommunications company shall terminate an individual's enrollment in the low-income customer or disabled customer program if the *[customer]* **individual ceases to meet eligibility requirements or refuses to authorize the appropriate federal, state or local agency to confirm to the commission or its staff that the individual or a dependent residing in the individuals household participates in one of the qualifying programs.** 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.

Exhibit A

(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.

(H) *[The Fund Administrator]* **The commission or its staff** shall *[be authorized by the board to]* conduct **periodic, random** audits of individual self-certification using records that can be lawfully made available from the **agencies administering** *[rators off]* qualifying programs. **In the event records from the agencies administering the qualifying programs cannot lawfully be made available, the commission or its staff shall conduct audits using the records of the telecommunications company.** If as a result of these audits, the *[administrator]* **commission or its staff** determines that a recipient may not be eligible for low-income or disabled support, the individual shall be required to verify eligibility **as permitted by 4 CSR 240-31.050(F).** *[for continuing to receive support pursuant to administrative procedures established by the Fund Administrator and approved by the board].*

AUTHORITY: Section 392.210.2 392.248, and 386.250(2) RSMo 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more seventy-nine thousand, six hundred thirty-two dollars (\$79,632) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than fifty-two thousand dollars (\$52,000) in the aggregate.

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Cully Dale, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register** and should include a reference to commission Case No. TX-2008-00XX. Comments may also be submitted via a filing using the commission's electronic filing and information system and <http://www.psc.mo.gov/efis.asp>. A public hearing regarding this proposed rule is scheduled for XXX at XX in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.*