MEMORANDUM

TO: Morris L. Woodruff, Secretary

DATE: December 18, 2013

RE: Authorization to File Final Order of Rulemaking with the Office of Secretary of State

CASE NO: TX-2013-0324

The undersigned Commissioners hereby authorize the Secretary of the Missouri Public Service Commission to file the following Final Order of Rulemaking with the Office of the Secretary of State, to wit:

Rule 4 CSR 240-3.570 – Requirements for Carrier Designation as Eligible Telecommunications Carriers
Rule 4 CSR 240-31.010 - Definitions
Rule 4 CSR 240-31.020 – Organization, Powers and Meetings of the Board
Rule 4 CSR 240-31.030 – The MoUSFA
Rule 4 CSR 240-31.040 – Eligibility for Funding – High Cost Areas
Rule 4 CSR 240-31.050 – Eligibility for Funding – Low-Income Customers and Disabled Customers
Rule 4 CSR 240-31.060 – The MoUSF Assessment
Rule 4 CSR 240-31.065 – Collection of MoUSF Surcharge from End-User Subscribers
Rule 4 CSR 240-31.070 – Receipt of MoUSF Funds
Rule 4 CSR 240-31.080 – Applications for MoUSF Funds
Rule 4 CSR 240-31.090 – Disbursements of MoUSF Funds
Rule 4 CSR 240-31.100 – Review Procedures for Support Payments
Rule 4 CSR 240-31.110 – Review of Board and MoUSFA Activities
Rule 4 CSR 240-31.120 – Lifeline Program and Disabled Program
Rule 4 CSR 240-31.130 – Eligible Telecommunications Carrier Requirements

Robert S. Kenney, Chairman

Stephen M. Stoll, Commissioner

William P. Kenney, Commissioner

Daniel Y. Hall, Commissioner

Jason Kander
Secretary of State
Administrative Rules Division

RULE TRANSMITTAL

Administrative Rules Stamp

Rule Number 4 CSR 240-31.065

Use a "SEPARATE" rule transmittal sheet for EACH individual rulemaking.

Name of person to call with questions about this rule:
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Interagency mailing address Public Service Commission, 9th Fl., Gov. Ofc. Bldg., JC, MO

TYPE OF RULEMAKING ACTION TO BE TAKEN
☐ Emergency rulemaking, include effective date
☐ Proposed Rulemaking
☐ Withdrawal ☐ Rule Action Notice ☐ In Addition ☐ Rule Under Consideration
☐ Request for Non-Substantive Change
☐ Statement of Actual Cost
☒ Order of Rulemaking
Effective Date for the Order _____
☐ Statutory 30 days OR Specific date _____
Does the Order of Rulemaking contain changes to the rule text? ☒ NO
☐ YES—LIST THE SECTIONS WITH CHANGES, including any deleted rule text:

Small Business Regulatory Fairness Board (DED) Stamp

JCAR Stamp

JOINT COMMITTEE ON
DEC 18 2013
ADMINISTRATIVE RULES

Missouri Public Service Commission

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Jason Kander
Secretary of State
Administrative Rules Division
600 West Main Street
Jefferson City, Missouri 65101

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

Dear Secretary Kander,

CERTIFICATION OF ADMINISTRATIVE RULE

I do hereby certify that the attached is an accurate and complete copy of the order of rulemaking lawfully submitted by the Missouri Public Service Commission.

Statutory Authority: sections 392.200, 392.248 and 392.470, RSMo 2000

If there are any questions regarding the content of this order of rulemaking, please contact:

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Morris L. Woodruff
Chief Regulatory Law Judge

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

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under sections 392.200, 392.248, and 392.470 RSMo 2000, the commission rescinds a rule as follows:

4 CSR 240-31.065 Collection of MoUSF Surcharge from End-User Subscribers **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 16, 2013 (38 MoReg 1467). No changes have been made in the proposed rescission so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The public comment period ended October 16, 2013, and the commission held a public hearing on the proposed rescission on October 21, 2013. The commission received timely written comments from the Staff of the Missouri Public Service Commission; the Missouri Cable Telecommunications Association (MCTA); Southwestern Bell Telephone Company, d/b/a AT&T Missouri; CenturyTel of Missouri, LLC d/b/a CenturyLink, Embarq Missouri, Inc., d/b/a CenturyLink, Spectra Communications Group, LLC d/b/a CenturyLink, and CenturyTel of Northwest Arkansas, d/b/a CenturyLink (CenturyLink); Cricket Communications, Inc.; and the Small Telephone Company Group and the Missouri Independent Telephone Company Group (collectively STCG). In addition, the following people offered comments at the hearing: Christina Baker representing the Office of the Public Counsel; Barbara Meisenheimer on behalf of the Office of the Public Counsel; Stephanie Bell representing MCTA; Ken Woods on behalf of MCTA; Bob Gryzmala representing AT&T Missouri; Becky Kilpatrick representing CenturyLink; Bill Steinmeier representing Cricket; Brian McCartney representing STCG; Colleen Dale representing the Staff of the Missouri Public Service Commission; and Natelle Dietrich on behalf of the Staff.

The commission considered this particular rule in conjunction with fourteen other rules affecting telecommunications and the Missouri Universal Service Fund. Not all persons offering comments addressed this particular rule.

COMMENT: The Commission's staff indicated it has attempted to review all commission rules relating to ETCs and the MoUSF. Most of those rules have not

been revised since they were created in 1998. Aside from the need to update the rules, revisions are necessary to bring the state rules in line with recent changes to the federal USF and Lifeline programs. Staff proposed these rulemakings to accomplish five objectives:

1. Consolidate within one chapter of the Missouri rules all requirements pertaining to Eligible Telecommunications Carriers (ETCs) and the Missouri Universal Service Fund (MoUSF);
2. Rescind high-cost support rules;
3. Clarify and codify existing MoUSF Board responsibilities and procedures;
4. Update and clarify Lifeline program requirements; and
5. Update and clarify ETC requirements.

Staff said there are approximately seventy landline and wireless companies in Missouri with ETC status. Companies with ETC status may receive USF funding for participation in the high-cost program or the Lifeline program, or both. The federal USF high-cost program provides financial support to an ETC for the provisioning of voice or broadband service, or both, to high-cost areas. The MoUSF does not currently offer high-cost support. The federal Lifeline program provides similar support to companies for the provision of discounted voice service to qualifying low-income customers. The MoUSF provide financial support to landline phone providers for service to qualifying low-income and disabled customers.

State commissions are responsible under federal law for determining which telecommunications companies may be designated as an ETC in their states. In addition, the state commissions are responsible for an annual certification process to allow ETCs to continue to receive high-cost support.

Federal high-cost programs and the Lifeline program have recently been subject to intense criticism and the Federal Communications Commission (FCC) has implemented significant reforms in those programs. The state commissions also have authority to impose additional state-specific requirements on ETCs to ensure compliance with state Lifeline programs so long as those additional requirements do not conflict with federal requirements.

RESPONSE: The commission thanks its staff for its general comments. The commission will address staff's comments about specific rule provisions in the appropriate rulemaking.

COMMENT: The MCTA generally supports the commission's efforts to revise these rules. In particular, it supports the proposed deletion of rules relating to the high-cost component of the MoUSF in recognition of the fact that no such support is currently authorized and is unlikely to be authorized in the future. The MCTA also offered comments about specific provisions of the rules.

RESPONSE: The commission thanks the MCTA for its general comments and will address its comments about specific rule provisions in the appropriate rulemaking.

COMMENT: AT&T Missouri is critical of many aspects of the proposed rule changes. As part of a large company operating in many states, AT&T Missouri wants to see Missouri's rules closely adhere to federal standards imposed by the FCC. AT&T Missouri is concerned that additional state requirements would unnecessarily impose additional regulatory burdens.

AT&T Missouri also explains that recent federal regulatory efforts in this area have been focused on the Connect America Fund (CAF) which is aimed at providing high-cost universal service support for increasing broadband availability in areas lacking a private sector business case for broadband deployment. AT&T Missouri warns against erecting state regulatory barriers to the acceptance of CAF funds to provide service to Missouri customers.

AT&T offered numerous comments about specific provisions of the rules.

RESPONSE: The commission thanks AT&T Missouri for its general comments. The commission will attempt to balance the interests of telecommunications providers in having a streamlined regulatory process against the need to ensure that the USF programs are run efficiently. The commission will address AT&T Missouri's comments about specific rule provisions in the appropriate rulemaking.

COMMENT: CenturyLink generally urges the commission to retain its current rules regarding potential high-cost support from the MoUSF as such support is still authorized by Missouri statute, even though no such program has been established. Furthermore, CenturyLink asks the commission to ensure that the standards imposed by its rules are aligned with and not in excess of those imposed by the FCC. CenturyLink also offered comments about specific provision of the rules.

RESPONSE: The commission thanks CenturyLink for its general comments. The commission will attempt to balance the interests of telecommunications providers in having a streamlined regulatory process against the need to ensure that the USF programs are run efficiently and Missouri consumers are protected. The commission will address CenturyLink's comments about specific rule provisions in the appropriate rulemaking.

COMMENT: Cricket is primarily concerned about the use of electronic forms to collect applications from customers and offers specific comments in that regard.

RESPONSE: The commission thanks Cricket for its general comments and will address its specific comments in the appropriate rulemaking.

COMMENT: STCG represents Missouri's small, mostly rural incumbent telephone companies. STCG would like the commission to consider creation of a state high-cost USF fund. For that reason it asks the commission to retain a

portion of the rules relating to such a fund. STCG also offers comments about specific provisions of the rules.

RESPONSE: The commission thanks STCG for its general comments and will address its specific comments in the appropriate rulemaking.

COMMENT: Public Counsel reminds the commission that it has a statutory obligation to preserve and advance universal service in this state. To that end, Public Counsel urges the commission to protect elements of such service, such as interexchange service, access to directory assistance, and access to operator services, rather than merely seeking to align Missouri rules with those offered by the FCC. Public Counsel also offers comments about specific provisions of the rules.

RESPONSE: The commission thanks Public Counsel for its general comments. The commission will attempt to balance the interests of telecommunications providers in having a streamlined regulatory process against the need to ensure that the USF programs are run efficiently and Missouri consumers are protected. The commission will address Public Counsel's specific comments in the appropriate rulemaking.

COMMENT: Staff explains that the provisions of this rule have been updated and consolidated in 4 CSR 240-31.060. As a result, this rule is no longer needed and can be rescinded. No other commenter addressed the rescission of this rule.

RESPONSE: The commission will proceed with the rescission.