

**Robin Carnahan**  
Secretary of State  
Administrative Rules Division

**RULE TRANSMITTAL**

Administrative Rules Stamp

**RECEIVED** FILED  
August 8, 2013  
Data Center  
Missouri Public  
Service Commission  
AUG 07 2013  
SECRETARY OF STATE  
ADMINISTRATIVE RULES

Rule Number 4 CSR 240-31.060

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

**COPY**

Name of person to call with questions about this rule:

Content Morris Woodruff Phone 573-751-2849 FAX 573-526-6010

Email address morris.woodruff@psc.mo.gov

Data

Entry Chris Koenigsfeld Phone 573-751-4256 FAX 573-526-6010

Email address christine.koenigsfeld@psc.mo.gov

Interagency mailing address Public Service Commission, 9<sup>th</sup> 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

☐ 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

SMALL BUSINESS  
REGULATORY FAIRNESS BOARD

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JOINT COMMITTEE ON

AUG 07 2013

ADMINISTRATIVE RULES



**Commissioners**

**ROBERT S. KENNEY**  
Chairman

**TERRY M. JARRETT**

**STEPHEN M. STOLL**

**WILLIAM P. KENNEY**

***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>

**JOSHUA HARDEN**  
General Counsel

**MORRIS WOODRUFF**  
Secretary

**WESS A. HENDERSON**  
Director of Administration  
and Regulatory Policy

**CHERLYN D. VOSS**  
Director of Regulatory Review

**KEVIN A. THOMPSON**  
Chief Staff Counsel

August 7, 2013

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

Re: 4 CSR 240-31.060 Assessments for MoUSF Funding

Dear Secretary Kander,

**CERTIFICATION OF ADMINISTRATIVE RULE**

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

The Public Service Commission has determined and hereby certifies that this proposed rulemaking will not have an economic impact on small businesses. The Public Service Commission further certifies that it has conducted an analysis of whether there has been a taking of real property pursuant to section 536.017, RSMo 2000, that the proposed rulemaking does not constitute a taking of real property under relevant state and federal law, and that the proposed rulemaking conforms to the requirements of 1.310, RSMo Supp. 2012, regarding user fees.

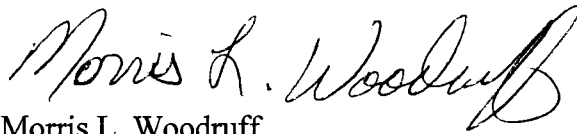
The Public Service Commission has determined and hereby also certifies that this proposed rulemaking complies with the small business requirements of 1.310, RSMo Supp. 2012, in that it does not have an adverse impact on small businesses consisting of fewer than fifty full or part-time employees or it is necessary to protect the life, health, or safety of the public, or that this rulemaking complies with 1.310, RSMo Supp 2012, by exempting any small business consisting of fewer than fifty full or part-time employees from its coverage, by implementing a federal mandate, or by implementing a federal program administered by the state or an act of the general assembly.

Statutory Authority: sections 392.200 RSMo Supp. 2004 and 392.248 and 392.471.1 RSMo 2000

Woodruff  
August 7, 2013  
Certification of Administrative Rule

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

Morris L. Woodruff, Chief Regulatory Law Judge  
Missouri Public Service Commission  
200 Madison Street  
P.O. Box 360  
Jefferson City, MO 65102  
(573) 751-2849  
[morris.woodruff@psc.mo.gov](mailto:morris.woodruff@psc.mo.gov)

A handwritten signature in black ink, reading "Morris L. Woodruff". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Morris L. Woodruff  
Chief Regulatory Law Judge

Enclosures

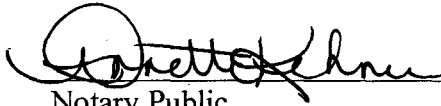
**AFFIDAVIT  
PUBLIC COST**

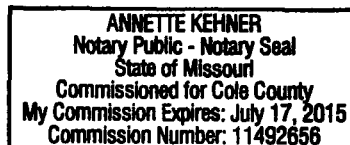
**STATE OF MISSOURI )**  
**)**  
**COUNTY OF COLE       )**

I, Mike Downing, Acting Director of the Department of Economic Development, first being duly sworn, on my oath, state that it is my opinion that the cost of proposed amendment, 4 CSR 240-31.060, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.

  
\_\_\_\_\_  
Mike Downing  
Acting Director  
Department of Economic Development

Subscribed and sworn to before me this 15<sup>th</sup> day of July, 2013, I am commissioned as a notary public within the County of Cole, State of Missouri, and my commission expires on 17 July 2015.

-   
\_\_\_\_\_  
Notary Public



# COPY

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

AUG 07 2013

SECRETARY OF STATE  
ADMINISTRATIVE RULES

## PROPOSED AMENDMENT

**4 CSR 240-31.060 The MoUSF Assessment[s for MoUSF Funding]** The Commission is amending the chapter header, rule title, and sections (1), (2), and (4)(B), adding new sections (4), (4)(B), (4)(C), (4)(D), (4)(E), (4)(F), and (5), and deleting sections (3), (4)(A), (5), (6), and (7).

*PURPOSE: This amendment clarifies the MoUSF assessment process.*

(1) All *[applicable]* **assessable** carriers *[providing telecommunications service as defined in section 386.020(53), RSMo 2000 in Missouri]* will be subject to the **MoUSF** assessment *[for contributions to the Missouri Universal Service Fund (MoUSF)]*.

(2) **The MoUSF** *[A]assessment[s for the MoUSF will be]* is based on *[the]an assessable carrier's* Missouri net jurisdictional revenues *[of each applicable carrier and other nondiscriminatory factors as determined by the commission]*.

(3) *[Assessments will be based on the level of net jurisdictional revenues from the preceding calendar year or for some shorter time period as may be determined by the commission.]*

*[(4) Collection of Data for] Assessment[s] Level.*

(A) *[The commission will furnish to the Fund Administrator by December 31 of each year, or more frequently as may be determined by the commission, a list of all telecommunications companies holding certificates of service authority in the state of Missouri.]*

(B) *In February each year, [T]he [Fund Administrator will periodically submit to]MoUSFA shall issue a form on which each registered VoIP provider and certificated telecommunications company [a request for information regarding its]shall certify the company's* Missouri net jurisdictional revenues **for the prior calendar year.** *[Such report will be due to the Fund Administrator ninety (90) days from the receipt of the request.]*

(B) Companies shall be given ninety (90) days to complete and return the form.

(C) The MoUSFA shall regularly monitor the MoUSF's balance, disbursements, remittances and other relevant information to ensure a reasonable MoUSF balance. The MoUSF Fund balance should be within a target range of five to nine months worth of MoUSF expenses, or as otherwise determined by the board.

(D) The MoUSFA shall submit in each monthly report to the board a recommendation to maintain, increase or decrease the assessment level. Any assessment adjustment recommendation must be accepted by the board and then approved by commission order before going into effect.

(E) If the commission approves an assessment adjustment, it shall notify all assessable carriers of a change in the assessment. Notice should be provided to carriers at least sixty days in advance of any change to the assessment.

JOINT COMMITTEE ON

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**(F) The MoUSF web site shall readily identify the current assessment level as well as give notice of any pending assessment adjustments.**

**(4) Collection of MoUSF assessment from customers.**

**(A) All assessable carriers shall place on each retail end-user customer's bill, a surcharge equal to the percentage assessment ordered by the commission.**

**(B) The surcharge shall appear as a separate line item detailed as "Missouri Universal Service Fund."**

**(C) The surcharge percentage shall be applied to each customer's total charges associated with the carrier's net jurisdictional revenues.**

**(D) A carrier shall not recover its MoUSF assessment in any way other than through this surcharge.**

**[(5) Determination of Assessments.**

*(A) The Fund Administrator shall summarize the funding requests from companies serving high cost areas and from companies providing service to low-income customers and disabled customers to calculate a statewide funding requirement for the MoUSF. At the inception of the fund, the Fund Administrator may also make estimates of the funding requirements for those companies whose funding has not been finally determined.*

*(B) The Fund Administrator shall submit to the board its determination of the funding requirements, along with its determination of the revenues upon which the assessment shall be made, and the percentage assessment to be made upon the net jurisdictional revenues of each applicable carrier.*

*(C) The board shall review the Fund Administrator's submission and authorize an appropriate percentage assessment to be submitted to the commission for approval to be made upon the applicable revenues to each Missouri applicable carrier to provide funding for the MoUSF.]*

**(5) Remitting MoUSF assessments.**

**(A) All assessable carriers shall remit in either of the following methods:**

**1. The carrier may remit all funds received as a result of the application of the MoUSF surcharge as provided in (4) above, in full satisfaction of a carrier's annual percentage assessment, or**

**2. The carrier may remit an amount based solely on applying the percentage assessment to the carrier's Missouri net jurisdictional revenue. If this method is used, no refunds shall be given if a carrier subsequently finds it remitted more than it collected.**

**(B) The MoUSFA shall publish on the MoUSF web site remittance procedures and deadlines for remitting payments. Remittances shall generally be made on a monthly basis; however, quarterly payments may be allowed as described on the MoUSF web site.**

**(C) Failure to submit payments in a timely manner shall result in late payment fees as determined by the board. Waiver of such late payment fees may be considered if an explanation of why a waiver should be granted is submitted in writing to the MoUSFA within thirty days of being notified of the initial late payment fee. Waivers shall only be granted by the board or as delegated by the board to its staff.**

*[(6) Notices of Assessments.*

*(A) Notices of assessment, as determined under 4 CSR 240-31.060(5)(B) above, shall be sent by the Fund Administrator to every applicable carrier.*

*(B) Payments shall generally be assessed to be paid on a monthly basis although the Fund Administrator may establish payments on a quarterly or annual basis for those companies where it would be inefficient to collect payments on a monthly basis.*

*(7) Adjustments to Assessments.*

*(A) The Fund Administrator will report to the board on a monthly basis the status of fund receipts and disbursements. Included in this report will be the Fund Administrator's assessment of the appropriateness of the current assessment level in relationship to known fund requirements.*

*(B) The Fund Administrator will recommend to the board, or the board on its own action, may implement changes in assessment levels as is appropriate to adjust the fund's receipts to meet its funding obligations.]*

**AUTHORITY:** sections 392.200, RSMo Supp. 2004 and 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. Amended: Filed June 30, 2005, effective Feb. 28, 2006. **Amended: Filed**

**\*Original authority:** 392.200, RSMo 1939, amended 1987, 1988, 1996, 2003; 392.248, RSMo 1996; and 392.470.1, RSMo 1987.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five-hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING:** Anyone may file comments in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the Commission's offices on or before October 16, 2013, and should include a reference to Commission Case No. TX-2012-0324. Comments may also be submitted via a filing using the Commission's electronic filing and information system at <<http://www.psc.mo.gov/efis.asp>>. A public hearing regarding this proposed rule is scheduled for October 21, 2013 at 10:00 a.m. in the commission's offices in the Governor Office Building, 200 Madison Street, Room 305 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 (voice) or Relay Missouri at 711.

# **Small Business Regulator Fairness Board**

## **Small Business Impact Statement**

**Date:** December 12, 2012

**Rule Number:** 4 CSR 240-31.060

**Name of Agency Preparing Statement:** Missouri Public Service Commission

**Name of Person Preparing Statement:** Natelle Dietrich

**Phone Number:** 573-751-7427

**Email:** natelle.dietrich@psc.mo.gov

**Name of Person Approving Statement:** Natelle Dietrich

**Please describe the methods your agency considered or used to reduce the impact on small businesses** *(examples: consolidation, simplification, differing compliance, differing reporting requirements, less stringent deadlines, performance rather than design standards, exemption, or any other mitigating technique).*

N/A

**Please explain how your agency has involved small businesses in the development of the proposed rule.**

The Commission held workshops and solicited informal comments from affected entities, including small businesses.

**Please list the probable monetary costs and benefits to your agency and any other agencies affected. Please include the estimated total amount your agency expects to collect from additionally imposed fees and how the moneys will be used.**

None

**Please describe small businesses that will be required to comply with the proposed rule and how they may be adversely affected.**

Carriers defined as "assessable" carriers – all registered interconnected VoIP providers and certificated telecommunications companies except pay telephone providers, shared tenant services providers and those companies with annual net jurisdictional revenue below a de minimis level of \$24,000.



Small business customers that are assessed the applicable surcharge percentage on charges associated with a carrier's Missouri net jurisdictional revenues.

**Please list direct and indirect costs (in dollars amounts) associated with compliance.**

None identified. Current surcharge is .25%.

**Please list types of business that will be directly affected by, bear the cost of, or directly benefit from the proposed rule.**

Small business customers that are assessed the applicable surcharge percentage on charges associated with a carrier's Missouri net jurisdictional revenues.

**Does the proposed rule include provisions that are more stringent than those mandated by comparable or related federal, state, or county standards?**

Yes\_\_\_ No\_X\_

**If yes, please explain the reason for imposing a more stringent standard.**

*For further guidance in the completion of this statement, please see §536.300, RSMo.*