

Robin Carnahan

**Secretary of State
Administrative Rules Division**

RULE TRANSMITTAL

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SECRETARY OF STATE
ADMINISTRATIVE RULES

FILED
August 8, 2013
Data Center
Missouri Public
Service Commission

Rule Number 4 CSR 240-31.130

COPY

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

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, 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

☐ 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

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ADMINISTRATIVE RULES



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Chairman

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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 240-31.130 Eligible Telecommunications Carrier Requirements

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.

Woodruff
August 7, 2013
Certification of Administrative Rule

Statutory Authority: sections 392.200.2 and 392.248, RSMo Supp. 1997 and 392.470.1, RSMo 1994

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

A handwritten signature in black ink, reading "Morris L. Woodruff". The signature is written in a cursive style with a large, stylized "M" and "W".

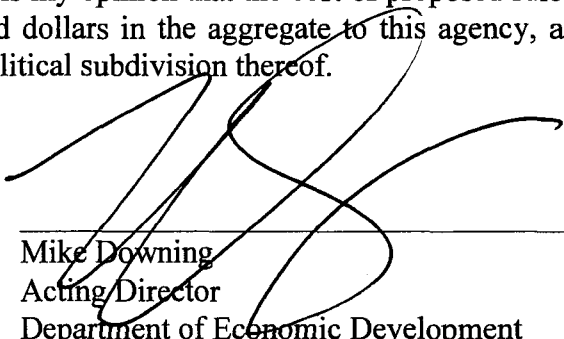
Morris L. Woodruff
Chief Regulatory Law Judge

Enclosures

**AFFIDAVIT
PUBLIC COST**

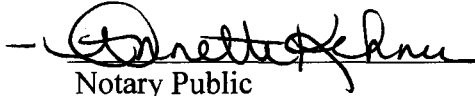
STATE OF MISSOURI)
)
COUNTY OF COLE)

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 rule, 4 CSR 240-31.130, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.

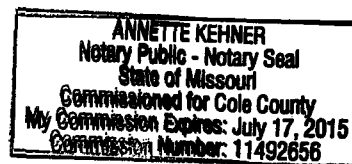


Mike Downing
Acting Director
Department of Economic Development

Subscribed and sworn to before me this 15 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



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

AUG 07 2013

SECRETARY OF STATE
ADMINISTRATIVE RULES

PROPOSED RULE

4 CSR 240-31.130 Eligible Telecommunications Carrier Requirements

PURPOSE: This proposed rule establishes application requirements for any carrier seeking ETC designation and on-going requirements for any carrier designated as an eligible telecommunications carrier.

(1) Application requirements for ETC designation.

(A) All ETC applications shall comply with the application requirements identified in 4 CSR 240-2.060. All applications shall be verified by oath as to the truthfulness therein by an officer or director of the applicant;

(B) All ETC applications shall contain the following information regarding the company's proposed provisioning of voice telephony service:

1. A description of the service the applicant will offer;
2. An identification of the applicant's proposed service area;
3. An explanation of how the applicant will offer services using its own facilities or a combination of its own facilities and resale of another carrier's services, including a description of the applicant's own facilities as that term is defined in 47 CFR 54.201. If an applicant is seeking ETC designation solely for Lifeline purposes and does not comply with the own-facilities requirement, the applicant shall provide:

A. A statement confirming that subscribers will have 911 and E911 access; and

B. A copy of the applicant's FCC-approved compliance plan. Unless otherwise specified by the FCC, an applicant's compliance plan shall adequately address the information specified in the FCC's Public Notice DA 12-314 released February 29, 2012 for WC Docket Nos. 09-197, 11-42;

4. A statement certifying the applicant will advertise the availability of its supported service and its price, using media of general distribution. The applicant shall also provide an explanation of how the applicant will advertise. If an applicant intends to advertise its service by direct mail then the company shall explain how it will target those mailings to consumers reasonably likely to qualify for the service. An applicant shall provide examples of advertising, when available;

5. A certification that the applicant will comply with the applicable service requirements in 47 CFR 54.201(d)(2);

6. A demonstration of the applicant's ability to remain functional in emergency situations, including a description of available back-up power, and a

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ADMINISTRATIVE RULES

description of how the applicant will reroute traffic around damaged facilities and how it will managing traffic spikes resulting from emergency situations;

7. A statement that the applicant will satisfy applicable consumer protection, consumer privacy, and service quality standards. This statement shall include a list of those specific standards the applicant deems applicable. A wireless applicant shall include a statement that it will comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service;

8. A description of all rates, terms, conditions, and provisions applicable to the proposed voice telephony service to be supported, in whole or part, as Lifeline or Disabled service, including any overage or additional minute charges. The applicant shall state whether this information will be maintained in a tariff or wireless informational filing with the commission, or on a publically available website;

9. An explanation of how the applicant intends to provide service throughout the proposed service area, including areas whereby the applicant lacks facilities or network coverage;

10. A description of how the applicant will ensure service will be provided in a timely manner to requesting customers;

11. A commitment to maintain a record of customer complaints, including an agreement to make such records available upon request to the commission staff;

12. A commitment to remit required, collected 911 revenues to local authorities;

13. A demonstration that the applicant is financially viable and technically capable of providing voice telephony service; and

14. A description of how, if at all, the applicant will provide access to directory assistance services, operator services, and interexchange services.

(C) All ETC applications shall contain the following information regarding disciplinary history of the applicant and the individuals associated with the ETC applicant:

1. The identity of any individual or entity having a 10% or more ownership interest in the applicant, and all managers, officers and directors, or any person exerting managerial control over the applicant's day-to-day operations, policies, service offerings and rates;

2. The identity of any companies sharing common ownership or management with the applicant. For any identified company, indicate whether the company has or is currently offering telecommunications, IVoIP and/or wireless services, or has ever received funds from the FUSF or any state universal service fund; and

3. The details of any matter brought in the last ten years by any state or federal regulatory or law enforcement agency against the applicant, any person or entity that holds more than a 10% ownership interest in the applicant, any affiliated

company (any company under common management ownership or control, or that, by contract or other agreement performs any of the functions necessary to the applicant's Lifeline Service), that involves any aspect of state or federal Universal Service funds and programs, or any matter involving fraud, deceit, perjury, stealing or the omission or misstatement of material fact in connection with a commercial transaction. Such matters include, but are not limited to, formal or informal notices of investigation, indictment, the filing of a complaint, a civil lawsuit, revocation or suspension proceeding, action for penalties or damages, or criminal charges. Such details include, but are not limited to, copies of complaints or other such pleadings and the filed responses thereto, as well as any orders, decisions or other determinations of culpability, including those that exonerate the subject of any wrongdoing.

(D) All ETC applications shall contain the following information and commitments regarding the applicant's proposed participation in the Lifeline or Disabled program:

1. Certification that all funding will flow through to the subscriber of the applicable program;
2. A commitment that the applicant will solely conduct business using the name or "DBA" under which the commission granted ETC designation. This commitment shall also include a statement the applicant will not use additional service or brand names;
3. A commitment that the applicant will comply with all requirements associated with the Lifeline program contained in 47 CFR Part 54 Subpart E;
4. A commitment that the applicant will comply with all requirements contained in this chapter, whether funded solely through the FUSF or through the FUSF and the MoUSF;
5. A statement indicating whether the applicant intends to seek support from the MoUSF. If so, the applicant shall state whether it intends to participate in the Disabled program;
6. A demonstration of how the applicant will ensure that the full amount of Lifeline or Disabled support will be passed through to the qualifying low-income consumer;
7. A commitment that the applicant will only use a Lifeline or Disabled Application form approved by the board, and that any supplemental form, as well as any changes to the supplemental form, will be submitted to the commission staff at least one business day prior to use of the form in Missouri;
8. An explanation of how the applicant will initiate Lifeline or Disabled service to a subscriber, including:
 - A. How it will ensure a subscriber meets eligibility requirements;
 - B. How it will determine if a subscriber's identity and primary address are correct; and
 - C. How it will ensure that only one Lifeline or Disabled discount is received per household;
9. If the applicant does not assess or collect a monthly fee for Lifeline service, it shall explain how it will comply with the following requirements:

A. The applicant will not receive universal service support until the subscriber activates the service; and

B. The applicant will only receive support for a subscriber using the service within the last 60 days, including a description of its process to monitor and de-enroll a subscriber that fails to use the service for 60 consecutive days;

10. An explanation of how the applicant intends to annually verify a customer's continued eligibility for the Lifeline or Disabled program, including what action will be taken if a subscriber fails to adequately respond or is no longer eligible for support; and

11. A statement indicating whether the applicant intends to use agents or independent contractors who are not employees of the applicant to sign-up subscribers to the Lifeline or Disabled program. If non-employees are going to be used then the applicant shall supplement this statement by committing to take responsibility for them and their activities as if they were legally employees of the applicant. In addition, the applicant shall explain how it will monitor such personnel to ensure compliance with all applicable laws and rules concerning the Lifeline or Disabled programs.

(E) All ETC applications shall contain the following regulatory information:

1. A commitment to notify the commission of any changes to company contact information;

2. If the applicant is certificated or registered by the commission, a statement that the company is compliant with all reporting and assessment obligations;

3. A statement that the applicant is compliant with contribution obligations to the FUSF; and

4. If an applicant has sought and obtained a waiver of any ETC requirement from the FCC, it shall provide a copy of the FCC's decision.

(F) Any application seeking ETC designation for the intended purpose of receiving federal high-cost support shall provide the following additional information:

1. A statement that the applicant will comply with all requirements of 47 CFR Part 54 Subpart C;

2. An explanation of how granting ETC status is in the public interest;

3. A five-year plan describing specific proposed improvements or upgrades to the applicant's network throughout its proposed service area. This plan shall include a description of the intended use of the high-cost support, including detailed descriptions of any construction plans with start and end dates, populations affected by construction plans, existing tower site locations for wireless cell towers, and estimated budget amounts. The plan shall demonstrate that universal service support shall be used to improve coverage, service quality or capacity throughout the Missouri service area for which the requesting carrier seeks ETC designation including:

A. A detailed map of coverage area before and after improvements and in the case of wireless providers, a map identifying existing cell tower site locations;

B. The specific geographic areas where improvements will be made;

C. The projected start date and completion date for each improvement;

D. The estimated amount of investment for each project that is funded by high-cost support;

E. The estimated population that will be served as a result of the improvements;

F. If an applicant believes that service improvements in a particular wire center or census block are not needed, an explanation of its basis for this determination and a demonstration of how funding will otherwise be used to further the provision of supported services in that area; and

G. A statement as to how the proposed plans would not otherwise occur absent the receipt of high-cost support, and that such support will be used in addition to any expenses the ETC would normally incur;

4. A reasonable plan outlining the method for handling unusual construction or installation charges;

5. A statement that the applicant will use the support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended; and

6. A description of how the applicant intends to monitor the company's quality of service. This description shall include, but not be limited to monitoring:

A. The timeliness of providing service.

B. The timeliness of restoring out-of-service conditions.

C. The amount of trouble experienced with the applicant's service.

D. The amount of outages experienced with the applicant's service.

(2) ETC Requirements:

(A) An ETC shall not self-certify to the FUSFA for receipt of FUSF. Any ETC seeking annual certification to receive support pursuant to the high-cost, Lifeline or Disabled program shall seek certification through the commission by July 1 of each year;

(B) An application for ETC designation shall be deemed to be acceptance of commission jurisdiction over any issues related to ETC status and USF funding and acceptance of all commission rules pertaining to universal service. The commission shall not certify an ETC that fails to comply with state and federal rules applicable to that ETC;

(C) An ETC shall make available voice telephony service to all subscribers in the ETC's service area upon reasonable request;

(D) An ETC shall only offer Lifeline or Disabled service within its designated service area as provided in the Missouri Commission's ETC designation.

(E) Any ETC participating in the federal high-cost support program shall comply with all requirements identified in 47 CFR Part 54 Subpart D and these rules;

(F) Any ETC participating in the Lifeline program shall comply with all requirements identified in 47 CFR Part 54 Subpart E and this chapter. Any ETC participating in the Disabled program shall comply with this chapter. ETCs solely funded through the FUSF shall comply with this chapter;

(G) An ETC shall solely conduct business using the name or "DBA" under which the commission granted ETC designation and no additional service or brand names, unless the ETC properly files for a name or "DBA" change pursuant to 4 CSR 240-

31.130(2)(M). Use of other or additional names such as brand or service names shall be prohibited;

(H) An ETC shall maintain an intrastate tariff, wireless informational filing or a publically available website to display all rates, terms, conditions or other provisions concerning the company's voice telephony services;

(I) An ETC shall maintain a current list of company-designated contacts within the commission's Electronic Filing and Information System;

(J) An ETC shall notify the manager of the commission's Telecommunications Unit of any proceeding initiated by a state or federal regulatory authority alleging the ETC or any person or entity identified in section (1)(C) above is violating any state or federal universal service program requirements. Such notice shall also be required if any allegations of fraud, tax evasion or the commitment of a felony by the ETC or such person or entity are made. Notice shall be made within 30 days of the initiation of the proceeding and shall be in written format either via letter or electronic means. This notice shall explain the allegations, cite the proceeding and provide contact information for subsequent questions about the proceeding. If possible, the notice shall also provide an electronic link or electronic access to any public documents associated with the proceeding. The ETC shall subsequently forward any final decisions regarding the proceeding made by any state or federal agency or court within 30 days of releasing the decision;

(K) An ETC shall forward to the manager of the commission's Telecommunications Unit the audit results concerning the company's compliance with universal service program requirements as conducted by FUSFA or by an independent auditor as contemplated by 47 CFR 54.420. Finalized audit reports shall be provided within 30 days of the issuance of the final audit report. The ETC shall accompany a finalized audit report with a response as to how the company will address and resolve noncompliance issues, if any;

(L) An ETC shall comply with record keeping requirements as identified in 47 CFR 54.320 for the high-cost program and 47 CFR 54.417 for the Lifeline program. ETCs shall keep all books and records associated with ETC designation and/or the commission's annual certification process in accordance with good business practices, and at such place as they are normally kept in the usual course of business. The ETC shall make its books and records available to the commission or its staff consistent with 4 CSR 240-10.010 of the Commission's rules;

(M) An ETC shall cooperate and comply with periodic audits and/or requests for information by the commission staff to monitor compliance with this chapter;

(N) Any ETC that changes its name shall file a written notice in the commission's Electronic Filing and Information System at least ten days prior to the use of the new name. This notice shall include:

1. A statement clearly setting out both the old name and the new name;
2. Evidence of registration of the new name with the Missouri Secretary of State;
3. A statement that the company will continue to comply with all applicable laws and rules relating to ETC designation;
4. A statement that the company's contacts in EFIS have been reviewed and are correct; and

5. A copy of the notice informing customers of the name change; and
(O) No ETC shall willfully make any false entry or record or willfully neglect to make full, true and correct entries in such records of all facts and transactions appertaining to its business, nor shall an ETC make any false statement to the commission, FUSFA, or the FCC.

(3) Annual Filing Requirements for ETCs.

(A) In order for an ETC to continue to receive Lifeline support for the following calendar year, all ETCs, including an ETC solely receiving Lifeline support, shall annually submit, no later than July 1 of each year the following information to the Missouri Commission's Electronic Filing and Information System:

1. A certification by an officer of the company, under penalty of perjury, that:
 - A. The company complies with each of the annual certification requirements identified in 47 CFR 54.416(a);
 - B. The company complies with all Missouri Lifeline and Disabled program procedures as identified in 4 CSR 240-31.120;
 - C. The company is using a Lifeline and/or Disabled application form approved by the Missouri USF board;
 - D. The company complies with all requirements associated with the National Lifeline Accountability Database as identified in 47 CFR 54.404 when implemented;
 - E. The company's Lifeline service continues to meet the criteria set forth in 47 CFR 54.401;
 - F. For any company not assessing or collecting a monthly fee from its Lifeline subscribers, the company complies with the service activation and service de-enrollment requirements identified in 47 CFR 54.407(c) and 47 CFR 54.05(e)(3), respectively; and
 - G. The company's Missouri operations solely use the name of the company as recognized by the commission for ETC designation in all marketing and other USF-related materials including filings with the FUSFA and the FCC;
2. A statement indicating whether the company offers access to interexchange services, directory assistance services and operator services.
3. A copy of the annual report required by 47 CFR 54.422;
4. The results of the company's most recent annual re-certification efforts of existing Lifeline subscribers as required by 47 CFR 54.416(b);
5. Subscriber quantities as described below for the most recent twelve-month time period:
 - A. Number of Lifeline subscribers at the beginning of the twelve-month time period;
 - B. Total number of new Lifeline subscribers activated during the twelve-month time period;
 - C. Total number of Lifeline subscribers de-enrolled during the twelve-month time period.

I. ETCs offering a free Lifeline service whereby no monthly bill is sent to the Lifeline subscriber shall provide the following de-enrollment quantities for the twelve-month time period:

(a) Total number of Lifeline subscribers de-enrolled due to non-usage of the Lifeline service.

(b) Total number of Lifeline subscribers de-enrolled for all other reasons than reflected in subpart (a).

(c) Total number of Lifeline subscribers de-enrolled (i.e., (c) = (a) + (b)).

D. Number of Lifeline subscribers at the end of the twelve-month time period'

identifying the twelve-month time period.

E. If company participates in Disabled program then it shall provide respective subscriber quantity information for Disabled subscribers as described in A, B, C and D above.

Any subscriber quantities may be filed on a confidential basis using procedures in 4 CSR 240-2.135.

6. A summary of any USF- or ETC-related audits conducted within the past year. Such audits include the independent audits as contemplated by 47 CFR 54.420 and audits conducted by the FUSFA. If an audit identifies any non-compliance issue then the company shall provide the status of resolving the issue. The full and finalized audit report shall have been previously submitted to the manager of the commission's Telecommunications Unit as described in 4 CSR 240-3.570(3)(H) so the company shall the date the audit report was provided to the commission;

7. A list of any proceedings alleging the company is violating universal service fund requirements. This list shall consist of any formal proceeding in any jurisdiction that has either been initiated or completed within the past year. For each proceeding the company shall provide an accurate citation of the proceeding, the jurisdiction, and a brief description of the allegations along with the status of any finalized decisions regarding the proceeding by a regulatory agency or court;

8. If an ETC provides Lifeline discounted wholesale services to a reseller then the ETC shall identify the reseller.

9. The electronic address of any web site(s) whereby the company maintains information regarding the company's Lifeline service offering.

(B) All ETCs receiving high-cost support shall submit, no later than July 1 of each year in order for an ETC to continue to receive high-cost support for the following calendar year, the following additional information with the company's annual filing to the commission's Electronic Filing and Information System:

1. An officer of the company shall certify under penalty of perjury that:

A. All federal high-cost support provided to the company within Missouri was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended;

B. The company complies with applicable service quality standards and consumer protection rules. Wireless ETCs must also certify continued compliance with the latest edition of the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service; and

C. The company is able to function in emergency situations as contemplated by 47 CFR 54.202(a)(2).

2. A copy of the company's annual reporting information as required by 47 CFR 54.313.

3. An explanation of how the company monitors, if at all, the quality of service provided by the company for voice telephony service. This explanation shall include whether the company monitors the timeliness of providing service and remedying out-of-service conditions. The company shall provide results of its most recent consecutive three months of quality of service measurements, if available.

4. Identify the applicable study area code(s) of the company's high-cost service area in Missouri.

(C) An ETC may ensure confidentiality by classifying the filing as confidential

(4) ETC Compliance.

(A) ETCs shall maintain full compliance with all ETC requirements identified in this chapter and in 47 CFR 54. ETCs shall also comply with the laws, rules and procedures for other states in which they are an ETC, the state administrators in states in which they are an ETC, FUSFA and the FCC.

(B) Formal action to address ETC compliance issues may be initiated by a motion, complaint or by the commission. The commission may issue an order directing an ETC to show cause why corrective action should not be taken against it. During the course of the investigation, the commission may provisionally suspend state funding and/or may recommend provisional suspension of federal funding to the carrier. If the carrier is ultimately cleared of all compliance issues the commission may restore state funding and/or recommend restoring federal funding to which the ETC was entitled.

(C) Formal action to address ETC compliance issues may result in any or all of the following actions against the carrier at the discretion of the commission:

1. Penalty assessment;

2. Rescind ETC designation;

3. Suspend future state funding and/or recommend suspension of future federal funding for the Lifeline and/or Disabled programs; and

4. Application of special conditions or requirements for continued participation in the Lifeline and/or Disabled programs.

(D) The commission may grant a waiver of or variance from any provision of 4 CSR 240-31.010 through 4 CSR 240-31.130 for good cause, upon request or upon its own motion. A party wishing to obtain a waiver or variance shall file an application with the commission setting out the reason for its request.

AUTHORITY: sections 392.200.2 and 392.248, RSMo Supp. 1997 and 392.470.1, RSMo 1994. Original rule filed _____*Original authority: 392.200,*

RSMo 1939, amended 1987, 1988, 1996; 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 cost private entities twenty-one thousand, six hundred dollars (\$21,600) 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 240-31.130

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.

Telecommunications companies and wireless providers that seek and receive designation as eligible telecommunications carriers (ETC).

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

One Wireless ETC suggests the annual filing requirements contained in 4 CSR 240-31.130(3) will increase company costs. Costs for the fiscal note were estimated as follows:

8 hours to prepare * \$75 per hour = \$600 estimated annual cost per company
\$600 * 3 years = \$1800 per company for the life of the rule
\$1800 * 12 wireless companies with Lifeline-only ETC status = \$21,600 for the life of the rule.

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

Telecommunications companies and wireless providers that seek and/or receive ETC designation.

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

Yes ☒ No ☐

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

There have been efforts to reduce fraud and abuse of the federal Universal Service Fund. The Missouri Public Service Commission has directed its Staff to complete audits of companies receiving state and federal USF. During those audits, questionable activities have been discovered that have led the Commission and its Staff to tighten the requirements necessary to receive and retain ETC designation (a designation that indicates a company has met all requirements and is eligible to receive state and federal funding).

Federal regulations state that states may have more stringent requirements as long as the state requirements do not conflict with the federal requirements.

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